



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov



Arnold Schwarzenegger
Governor

FEB 23 2009

In Reply Refer to:

363:MC:262.0(52-19-02), S004730,
D031709R, & L031710

Ms. Ellen Pearson
1343 Redwood Way
Pacifica, CA 94044

Mr. John Hale
19254 Niles Lane East
Redding, CA 96002

Mr. John Cowan
2610 Sulphur Springs Avenue
St. Helena, CA 94574

CLOSURE OF THE WATER RIGHT COMPLAINT FILED AGAINST ROBINWOOD VINEYARDS / JOHN COWAN

Dear Ms. Pearson, Mr. Hale, and Mr. Cowan:

The records of the Division of Water Rights (Division) show that you were sent a copy of the Staff Report of Investigation on October 31, 2008, regarding the complaints filed by Ms. Pearson and Mr. Hale against Robinwood Vineyards (Robinwood). In that report, Division staff concluded that:

1. The current diversions and uses of water on the Robinwood property have valid bases of right; and
2. Neither the complainants nor the Department of Fish and Game (DF&G) provided the Division at that time with any supporting evidence of harm to public trust resources caused by the Robinwood diversions.

The parties to the complaint were provided an opportunity to submit additional evidence or indicate if they disagreed with the findings and conclusions of the staff report. If there was a disagreement, the parties were asked to substantiate or justify a different course of action. Ms. Pearson submitted a letter dated November 6, 2008, and Mr. Hale submitted a letter dated November 14, 2008, in which they expressed disagreement with some of the observations and conclusions made by Division staff. I appreciate and concur with Mr. Hale's clarification that the Nelson Creek watershed originates above the Robinwood/Cowan property. Both Ms. Pearson and Mr. Hale were mostly concerned that the conditions observed by Division staff during the field investigation on December 11 and 12, 2007, were not indicative of normal conditions on the creek, particularly as related to the amount of water bypassed below Robinwood's point of diversion.

Division staff's final conclusion in the staff report clearly states that Robinwood's methods and purposes of use must be reasonable and that Mr. Cowan should closely monitor his diversion and adjust his intake to ensure maximum efficiency so that water is not unnecessarily diverted or wasted.

California Environmental Protection Agency



Recycled Paper

Ms. Ellen Pearson
Mr. John Hale
Mr. John Cowan

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Standard term #17 under the recently issued Small Domestic Use Registration R750 (SDR) subjects diversions from the creek to the following operational requirement:

The facilities for diversion under this registration shall include satisfactory means of measuring and bypassing sufficient water to satisfy downstream prior rights and any requirements of the California Department of Fish and Game.

Mr. Cowan was required by law to notify DF&G staff of his intent to file an application for an SDR and to comply with all lawful conditions imposed by the DF&G [Water Code §1228 (a) (7)]. To that end, the DF&G sent a letter dated March 17, 2008, to Mr. Cowan (copy enclosed) containing four (4) recommended conditions. Condition #3 states:

For the protection of riparian habitat and aquatic species in and below Nelson Creek, the applicant shall bypass at least 50 percent of the surface flow of Nelson Creek at any time diversion for domestic use is occurring.

Standard term #16 of the SDR also requires that:

In compliance with Section 5937 of the Fish and Game Code, if storage or diversion of water under this registration is by means of a dam, registrant shall allow sufficient water at all times to pass through a fishway or, in the absence of a fishway, allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist below the dam; provided that, during a period of low flow in the stream, upon approval of the California Department of Fish and Game, this requirement will be satisfied if sufficient water is passed through a culvert, waste gate, or over or around the dam to keep in good condition any fish that may be planted or exist below the dam if it is impracticable or detrimental to pass the water through a fishway. In the case of a reservoir, this provision shall not require the passage or release of water at a greater rate than the unimpaired natural inflow into the reservoir.

Consequently, I am directing Mr. Cowan to provide written notification within 60 days from the date of this letter of the method(s) he intends to utilize to comply with these terms and conditions during the period when diversion is made pursuant to SDR R750. Failure to comply with the terms and conditions of this water right could lead to appropriate enforcement action including the imposition of a Cease and Desist Order or Administrative Civil Liabilities of up to \$500 per day for unauthorized diversion of water, or \$1,000 for violation of a Cease and Desist order.

The initiation of enforcement proceedings, however, is a discretionary action. During the complaint investigation, Division staff received no compelling evidence from either the complainants or the DF&G staff regarding existing adverse impacts to public trust resources caused by the Robinwood diversion. Recently, Division staff contacted DF&G staff and was informed that no new information is available. Successful enforcement of any violation of the terms identified above requires evidence that clearly documents non-compliance with the conditions of the SDR, or existing or potential adverse impacts to the public trust resources. Until and unless such information is available, the Division may allow for voluntary compliance and not pursue other formal enforcement options.

Ms. Ellen Pearson
Mr. John Hale
Mr. John Cowan

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The operation of SDR R750 is also subject to all prior rights. However, most of the diversions by Robinwood are made pursuant to a riparian claim of right. Division staff correctly concluded that the State Water Resources Control Board (State Water Board) does not have the authority to determine the correlative shares of water amongst riparian right holders and that such authority rests with the courts. However, I want to inform you that, pursuant to Water Code Section 2501, the State Water Board may determine, in a Statutory Adjudication proceeding, all rights to water of a stream system whether based on appropriation, riparian claim of right, or other basis of right. Measures to protect public trust resources might also be established during such a proceeding.

The initiation of such an adjudication proceeding requires one or more claimants to water of any stream system to request the determination of the rights of the various claimants to the water of that stream system, and a finding of the State Water Board that it is in the public interest to conduct the adjudication. If an adjudication is ordered, all claimants to the use of water in the adjudication proceeding are responsible to pay for all of the State Water Board's costs in the determination. Due to the potentially high cost, most water right disputes involving riparian claims of right are resolved through mutual agreement among the parties or by a court of competent jurisdiction instead of via an adjudication of all diverters in the stream system.

If there are any questions, Michael Contreras of the Division's Complaint Unit can be reached via telephone at (916) 341-5307 or via email at mcontreras@waterboards.ca.gov. His supervisor, Charles Rich, can be reached via telephone at (916) 341-5377 or email at crich@waterboards.ca.gov.

Sincerely,

ORIGINAL SIGNED BY:

James W. Kassel
Assistant Division Chief

Enclosure

cc: Department of Fish and Game
Northern Region
Attention Edna Eggeman
601 Locust Street
Redding, CA 96001

Department of Fish and Game
Northern Region
Attention Jane Vorpapel
601 Locust Street
Redding, CA 96001

**DEPARTMENT OF FISH AND GAME**<http://www.dfg.ca.gov>

Northern Region
601 Locust Street,
Redding, CA 96001
(530) 225-2363



NOTIFICATION NO. R1-08-0058

Page 1 of 7

AGREEMENT REGARDING PROPOSED LAKE OR STREAMBED ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the **Department**, and Mr. John W. and Mrs. Jane S. Cowan, representing themselves, hereinafter jointly and severally called the **Responsible Party**, is as follows:

WHEREAS, pursuant to Division 2, Chapter 6, Section 1602 of California Fish and Game Code (Code), the Responsible Party, on January 20, 2008, notified the Department that they intend to divert or obstruct the natural flow of, or change the bed, channel, or bank of, or use material from the streambed of, the following waters: **Nelson Creek, tributary to Dry Creek**, in the County of **Tehama**. These waters are located in Section 35, Township 29 North, Range 09 West, MDB&M; and

WHEREAS, the Department has determined that without implementation of the conditions contained within this Agreement, such operations may substantially adversely affect existing fish and wildlife resources including, but not limited to potential downstream impacts to game and non-game fish species, amphibians, reptiles, aquatic invertebrates, mammals, birds, and other aquatic and riparian species.

THEREFORE, the Department hereby proposes measures to protect fish and wildlife resources during the Responsible Party's work. The Responsible Party hereby agrees to accept and conduct all activities in accordance with the following:

NOTIFICATION MATERIALS AND PROJECT DESCRIPTION:

1) Responsible Party's notification (Notification of Lake or Streambed Alteration, received January 20, 2008, together with all maps, plans, photographs, drawings, and all other supporting documents submitted with notification to describe the activity) are hereby incorporated by reference into this Agreement. Responsible Party shall conduct project activities within the work areas and using the mitigative features described in the notification and supporting documents, unless such project activities, work areas or mitigative features are modified by the provisions of this Agreement, in which case the activities shall be conducted as described in this Agreement.

2) The work under this Agreement is limited to operating 1 diversion site to divert water from Nelson Creek in accordance with the Responsible Party's valid water right. This Agreement does not authorize the construction of stream crossings, removal of riparian vegetation, planting of riparian vegetation, or any other type of construction on the bed, banks or channel of any stream.

IMPACTS:

3) The Responsible Party shall not impact more than **10 linear ft** of stream channel and associated riparian habitat.

Conserving California's Wildlife Since 1870

PROJECT TIMING:

4) All construction and/or maintenance work on the stream banks or within the stream channel shall be confined to the period commencing July 1, and ending October 15, of any year in which this Agreement is valid, provided the stream is dry or at its lowest flow. If weather conditions permit and the stream is dry or at its lowest flow, the Responsible Party may perform work within the stream channel or on the banks after October 15, provided a written request is made to the Department at least 5 days before the proposed work period variance. Written approval from the Department for the proposed work period variance must be received by the Responsible Party prior to the start or continuation of work after October 15.

5) If work is performed within the stream channel or on the banks after October 15 as provided above, the Responsible Party shall do all of the following:

- Stage erosion and sediment control materials at the work site.
- Monitor the seventy-two (72) hour forecast from the National Weather Service. When the forecast predicts more than 30% chance of rain, or at the onset of any precipitation, stop all work and implement erosion and sediment control measures.

HABITAT AND SPECIES PROTECTION:

6) This Agreement does not authorize the take of any federal or state threatened or endangered species. If any threatened or endangered species could be impacted by the work proposed, the Responsible Party shall obtain the required state and federal permits.

7) If any part of the project could result in the "take" of a state listed threatened or endangered species, the Responsible Party must obtain a CESA permit from the Department. The Department may need to prepare a management plan to address impacts to listed species. If you have questions, contact the Department CESA coordinator at (530) 225-2300.

WATER DIVERSION:

8) The Responsible Party shall divert and use water in accordance with a valid water right, including any limitations on when water may be diverted and used, the purpose for which it may be diverted and used, and the location(s) where water may be diverted and used.

9) All water diversion facilities shall be designed, constructed, and maintained so they do not prevent, impede, or tend to prevent or impede the passing of fish upstream or downstream, as required by Fish and Game Code section 5901. This includes, but is not limited to, maintaining or providing a supply of water at an appropriate depth, and velocity to facilitate upstream and downstream migration of juvenile and adult salmonids.

10) The Responsible Party shall install fish screens on any unscreened diversion that is subject to this Agreement. To ensure the screens do not harm fish at any life stage, fish screens and flow velocities shall meet Department and National Marine Fisheries Service (NMFS) screening criteria. Where necessary, a bypass pipe or channel acceptable to the Department shall be installed and maintained to allow screened fish to be returned safely to the stream. Fish screens and bypass pipes or channels shall be in place and maintained in working order at all times water is being diverted. Please contact Mr. Jim Thompson of the

Department's Red Bluff Fish Habitat Improvement Shop at (530) 528-9406 to obtain information pertaining to screens on small diversions.

11) The Responsible Party shall regularly inspect all fish screens and bypass pipes or channels to verify that they are effectively protecting salmonids and other fish species in accordance with Department and NMFS fish screening criteria. When necessary, the responsible party shall clean and repair all fish screens and bypass pipes or channels. If a fish screen is removed for cleaning or repair, the Responsible Party shall ensure either that a replacement screen is installed immediately, or water is not flowing through the area where the screen is removed.

EROSION AND SEDIMENT CONTROL:

12) The project shall employ adequate erosion and sediment control devices to prevent the degradation of water quality.

13) The Responsible Party shall prevent the discharge of sediment, and/or muddy, turbid, or silt-laden waters, resulting from the project, into the stream channel. Where necessary to prevent such discharge, the Responsible Party shall properly install and maintain sediment barriers (including but not limited to filter fabric fencing, fiber mats, rice straw or fiber wattles or rolls) capable of preventing downstream sedimentation/turbidity. Said devices shall be cleaned of all trapped sediment as necessary to maintain proper function. Recovered sediment shall be disposed of where it shall not return to the waters of the State. Said devices shall be completely removed from the channel, along with all temporary fills, upon completion of operations.

14) Soils exposed by project operations shall be mulched to prevent sediment runoff and transport. Mulches shall be applied so that not less than 90% of the disturbed areas are covered. All mulches (except hydro-mulch) shall be applied in a layer not less than two inches deep. All mulches shall be kneaded or tracked-in with track marks parallel to the contour, and tackified as necessary to prevent excessive movement. All exposed soils and fills, including the downstream face of the road prism adjacent to the outlet of culverts, shall be reseeded with a mix of native grasses common to the area, free from seeds of noxious or invasive weed species, and applied at a rate which will ensure establishment.

15) If necessary to prevent mobilization of loose soils, fiber mats shall be laid over loose soils prior to mulching and tracking.

16) Soils adjacent to the stream channel that are exposed by project operations shall be adequately stabilized when rainfall is reasonably expected during construction, and immediately upon completion of construction, to prevent the mobilization of such sediment into the stream channels or adjacent wetlands. National Weather Service forecasts shall be monitored by the Responsible Party to determine the chance of precipitation.

17) No construction activities within the floodplain are authorized during any period when the stream is flowing.

18) Upon Department determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation, shall be halted until effective Department approved control devices are installed, or abatement procedures are initiated.

PETROLEUM, CHEMICAL AND OTHER POLLUTION:

- 19) Staging, storage, and re-fueling areas for machinery, equipment, and materials shall be located outside of the stream.
- 20) No equipment or machinery shall be operated within any flowing stream.
- 21) Any equipment or vehicles driven and/or operated within or adjacent to the stream channel shall be checked and maintained daily to prevent leaks of materials that, if introduced to water, could be deleterious to aquatic life, wildlife, or riparian habitat.
- 22) All activities performed in or near a stream shall have absorbent materials designated for spill containment and clean up activity site for use in case of accidental spill. Clean-up of all spills shall begin immediately. The responsible party shall immediately notify the State Office of Emergency Services at 1-800-852-7550. The Department shall be notified by the responsible party and consulted regarding clean-up procedures.
- 23) The Responsible Party shall comply with all litter and pollution laws. All contractors, subcontractors and employees shall also obey these laws and it shall be the responsibility of the Responsible Party to ensure compliance.
- 24) No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, asphalt, paint or other coating material, oil or petroleum products or other organic or earthen material from any construction, or associated activity of whatever nature shall be allowed to enter into, or placed where it may be washed by rainfall or runoff into, waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream or lake.

EQUIPMENT ACCESS:

- 25) Vehicles shall not be driven, or equipment operated, in water covered portions of a stream, or where wetland vegetation, riparian vegetation, or aquatic organisms may be destroyed, except as otherwise provided for in the Agreement to complete authorized work.
- 26) Staging/storage areas for equipment and materials shall be located outside of the stream.
- 27) Access to the work site shall be via existing roads and access ramps whenever possible.
- 28) Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the high water mark before such flows occur.

ADMINISTRATIVE PROVISIONS:

- 29) If the Responsible Party's work changes from that stated in the notification specified above, this Agreement is no longer valid and a new notification shall be submitted to the Department. Failure to comply with the provisions of this Agreement and with other pertinent Code sections, including but not limited to Code sections 5650, 5652, 5901, 5937, and 5948, may result in prosecution.
- 30) Nothing in this Agreement authorizes the Responsible Party to trespass on any land or property, nor does it relieve the Responsible Party of responsibility for compliance with

applicable federal, state, or local laws or ordinances. A consummated Agreement does not constitute Department endorsement of the proposed operation, or assure the Department's concurrence with permits required from other agencies.

31) The U.S. Army Corps of Engineers (Corps) has permitting requirements for certain in stream projects under Section 404 of the Federal Clean Water Act. If this project features the placement of dredged or fill materials into the channels of streams (below the ordinary high water mark) that are waters of the United States, a permit may be required by the Corps. If there is any question regarding the possibility of the project meeting the above limitations, the Responsible Party should contact the Corps prior to beginning work. This Agreement in no way represents permitting requirements by the Corps. It is the responsibility of the Responsible Party to contact the Corps, and to comply with the provisions of any 404 Permit issued, if required by the Corps. For information, contact the Corps office in your area.

32) The Responsible Party may have certain other responsibilities pursuant to the Federal Endangered Species Act resulting in mitigative project features required by the U.S. Fish and Wildlife Service (Service) and/or National Marine Fisheries Service (NMFS).

33) The provisions contained in this Agreement constitute the limit of activities agreed to and resolved by this Agreement. The signing of this Agreement does not imply that the Responsible Party is precluded from doing other activities at the site. However, activities not specifically agreed to and resolved by this Agreement shall be subject to separate notification pursuant to Code sections 1600 *et seq*.

34) In accordance with Code section 1605, the Responsible Party may request one extension of this Agreement, provided that the request is made in writing prior to the expiration of its original term. The Department shall grant the extension if the appropriate extension fee is paid unless it determines that the Agreement requires modification because the measures contained in the Agreement no longer protect the fish and wildlife resources that the activity may substantially adversely affect. If the Responsible Party fails to request the extension prior to the Agreement's termination then the Responsible Party shall submit a new notification with fees and required information to the Department. Any activity conducted under an expired Agreement is a violation of Code section 1600 *et seq*.

35) The Responsible Party shall provide a copy of this Agreement to all contractors, subcontractors, and the Responsible Party's project supervisors. Copies of the Agreement and any amendment thereto shall be readily available at work sites at all times during periods of active work and must be presented to any Department personnel, or personnel from another agency upon demand.

36) The Department reserves the right to enter the project site at any time to ensure compliance with measures of this Agreement.

37) All provisions of this Agreement remain in force throughout the term of the Agreement. Any provisions of the Agreement may be amended or the Agreement may be terminated at any time provided such amendment and/or termination are agreed to in writing by both parties. Mutually approved amendments become part of the original Agreement and are subject to all previously negotiated provisions.

38) The Responsible Party shall notify the Department, in writing, at least five (5) days prior to initiation of construction (project) activities and at least five (5) days prior to completion of construction (project) activities. Notification shall be faxed to the Department at (530) 225-2753, Attn: Eda Eggeman, Environmental Scientist. Agreement No. R1-08-0058.

39) It is understood the Department will enter into this Streambed Alteration Agreement for purposes of establishing protective features for fish and wildlife. The decision to proceed with the project is the sole responsibility of the Responsible Party, and is not required by this Agreement. It is further agreed all liability and/or incurred cost related to or arising out of the Responsible Party's project and the fish and wildlife protective measures of this Agreement, remain the sole responsibility of the Responsible Party. The Responsible Party agrees to hold harmless the State of California and the Department of Fish and Game against any related claim made by any party or parties for personal injury or any other damages.

40) This Agreement is not intended as an approval of a project or of specific project features by the Department of Fish and Game. Independent review and recommendations will be provided by the Department as appropriate on those projects where local, state, or federal permits or other environmental reports are required.

41) All persons and organizations named herein as the Responsible Party shall be jointly and severally liable for the performance and execution of all provisions of this Agreement.

SUSPENSION AND CANCELLATION:

42) Suspension and Cancellation. The Department may suspend or cancel this Agreement if the Department determines that circumstances warrant suspension or cancellation. The circumstances that might warrant suspension or cancellation include, but are not limited to, the following:

- a) Failure by the Responsible Party, or his/her employees, agents, representatives, contractors, and/or subcontractors, to comply with any of the terms and measures of this Agreement.
- b) The Department determines that the information the Responsible Party provided to the Department to develop this Agreement, or the information contained in a notification, is incomplete or inaccurate.
- c) The Department obtains new information that shows the work authorized by this Agreement could substantially adversely affect fish and wildlife resources, notwithstanding Responsible Party's compliance with the Agreement.
- d) The Department determines that measures to protect fish and wildlife resources different from those included in this Agreement are necessary to protect those resources.
- e) There is a substantial change in conditions. For purposes of this Agreement, "substantial change in conditions" shall mean one or more of the following: 1) the work described in this Agreement is substantially changed; 2) conditions affecting fish and wildlife resources substantially change; and/or 3) the work conducted under this Agreement have adversely affected, or will adversely affect, fish and wildlife resources, notwithstanding that Responsible Party has complied, or will comply with, the terms and measures of this Agreement.

43) Scope of Suspension. At the discretion of the Department, any action to suspend this Agreement may be limited in scope to address the specific problem or problems resulting in the suspension. Hence, the Department may limit the suspension to specified work or specified areas. The Department shall notify Responsible Party of any suspension of the Agreement, or any part thereof, in writing. Any suspension shall take effect immediately upon receipt of such notice by Responsible Party, or in accordance with the instructions contained in the notice. Such notice will identify the reason or reasons for the suspension, the actions necessary to correct the problem, and the scope of the suspension.

44) Reinstatement Following Suspension. The Department may lift any suspension when it has determined that Responsible Party has adequately addressed the problem or problems resulting in the suspension and that reinstatement of the Agreement will not cause harm to fish and wildlife resources.

This Agreement becomes effective on the date of Department's signature and terminates December 31, 2012.

CONCURRENCE

RESPONSIBLE PARTY

CALIFORNIA DEPARTMENT OF FISH
AND GAME

(Signature)

Mark Stopher
Habitat Conservation Program Manager
Northern Region

(Print Name)

(Date)

(Title/Organization)

(Date)

From: Chuck Rich
To: Contreras, Michael
Date: 1/8/2009 1:56 PM
Subject: Fwd: Re: March 17, 2008 Letter to John W. Cowan
Attachments: 08-0058 Draft agreement with watermark_010809.pdf

FYI

>>> "Eda Eggeman" <EEggeman@dfg.ca.gov> 1/8/2009 11:51 AM >>>
Dear Mr. Rich:

This agreement has not been executed. I sent the draft agreement on 4/21/08 and waited for him to return the signed copies. I called him on 6/27/08 to follow up and he left me a message on 7/7/08 saying they were fighting fires and he'd return the agreement as soon as possible. I'm still waiting.

As you know I wrote letters for both his stock pond and small domestic registrations, so I'm fairly familiar with his water situation. If you'd like to see photos from my site visit or talk this agreement, please call.

Eda C. Eggeman, Environmental Scientist
Aquatic Habitat Conservation Planning
California Department of Fish and Game
601 Locust Street
Redding, California 96001-2711
Phone (530) 225-2753 Fax (530) 225-2303

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>>> "Chuck Rich" <CRICH@waterboards.ca.gov> 12/26/2008 4:29 PM >>>
Dear Ms. Eggeman:

According to the attached letter to John W. Cowan, DF&G staff were in the process last March of preparing a Streambed Alteration Agreement for the diversion of water by John W. Cowan (dba Robinwood Vineyards) from Nelson Creek in northwestern Tehama County. Has this agreement been concluded? If so, could you send me a copy? My staff and I are currently working on a complaint filed against Mr. Cowan and could benefit from a review of any agreement reached by DF&G staff and Mr. Cowan.

If the agreement has not been concluded, is there an anticipated time frame for completion? Also, are you aware of any information regarding public trust resources in Nelson Creek in the vicinity of Mr. Cowan's diversion.

Thank you for your time and attention to this matter. If there are any questions, please let me know.

Sincerely,

Charles Rich, Chief
Complaint Unit
(916) 341-5377
CRich@waterboards.ca.gov



APR 23 1965

Water Use - Upper Pond

The aerial photo provided by the Division gives an accurate depiction of the property and irrigated fields.

HOW - All H²O flow is gravity flow. System begins with gravity fill of 8" pipe in Nelson Creek. This pipeline of approx. 1000 feet enters aerial map at Point A near the NW corner and enters pond at the northernmost tip Point B. A valve has been installed at Pt. B to control inflow into the pond from the diversion to reduce inflow during non-irrigation season, but allow for domestic use. Pond size is approx. .35 acre with a capacity of approx. 2.5 acre-feet, based on pond measurements made by the Division.

- Irrigation H²O for Field 1 (pond field) originates at Points C & D.
- Irrigation H²O for Field 2 (corral field) originates from pond and flows from pond by same underground pipe as domestic irrigation H²O. Ground is irrigated by contour ditches and hand set sprinklers.
- Irrigation H²O for Field 3 (mail field) flows from pond at Point E into highline ditch which fills contour ditches 1 and 2. There is a flow control gate at Point E which regulates H²O flow. Closed gate holds H²O into pond for irrig of pond field, corral field. Open gate opens flow into highline ditch to main irrigated field. H²O exits ditches onto field through 1 or 2" pipes in ditch banks or small channels dug through ditch bank to flood irrigated field.
- Domestic H²O System - pipe from pond fills approx. 2,000 gallon steel tank. Pipe underground from tank supply H²O to main house, bunkhouse, cottage, barn area and corrals. Second underground pipe supplies irrigation H²O from pond for domestic irrig. Purposes at ranch headquarters (lawn, garden, orchard & grounds) as well as incidental domestic purposes.

WHAT - Approx. $\frac{1}{2}$ acre orchard, lawn, garden, grounds.

- Approx. 50 acres irrigated pasture for cattle, use rate 1 CFS. It is our intention to put under irrigation those areas irrigated in the past where irrigation system is already in place. We also plan to irrigate Box F as a firebreak for the ranch headquarters.

WHEN - Diversion season 365 days.

- Irrigation Season - approx. mid May through mid October, depending on weather conditions.



Note: At 50 Scale
8 units = 200'

Shp Dec 11/12, 2007

D 013

Chznchelullz Pczk 15'

headwaters Nelson Cr.

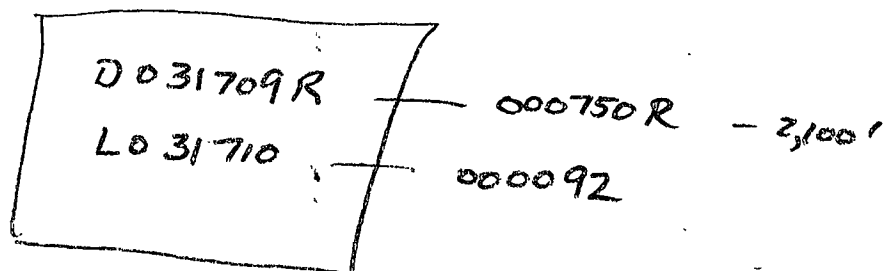
Sec 10 - T28N - R9W

just west of Pettymocus Butte @ 4020'

Ranch (Atkins Ranch) \approx 2100'

headwaters \approx 3775'

2.3 miles \rightarrow POD



Cowen POD \rightarrow Honey POD \approx 2 mi (1560')

Honey \rightarrow Dry Cr. Confluence 100 mi (1475')

Confluence \rightarrow Hwy 36 - 9.5 mi

10 mi

11 mi

4 mi

A01B23C

A01B22C

35 mi \rightarrow Cottonwood Cr.
(1400')

ERROR: invalidrestore
OFFENDING COMMAND: restore

S004730

From: Camilla Williams
To: Contreras, Michael
CC: Rigby, Bill; Toy, Whalen
Date: 11/10/2008 9:12 AM
Subject: Re: S004730

Michael - Thanks for the response and for the good information. I am sending a cc to Whalen and Bill in the event that Ms. Pearson tries to end round the Statement staff.

Bill - Please be sure that Michael's email response to Ms. Pearson's inquiry gets placed in the S004730 case file. Thanks.

>>> Michael Contreras 10/21/2008 10:16 AM >>>
Ms. Pearson,

The Statement of Water Diversion and Use (Statement S004730) that you refer to was initially filed with this office by I.H. Storer in 1969. This document reports the diversion and use of water that may have begun as early as 1900. The file for this Statement includes a handwritten document that is dated June 9, 1902, and titled, "Water Claim Notice." Documents on file indicate that the Statement was subsequently transferred to Richard and Dona Metzger in March 1995. The VOA Tedoc Gap Ranch, LLC later assumed the registry of the Statement, and in November 2007, S004730 was assigned to the Cowans, doing business as Robinwood Vineyards. Per your request, a copy of the initial Statement is attached in "pdf" format. The correspondence file for Statement S004730 can be viewed in our offices or arrangements can be made to obtain a full copy of the documents contained therein by contacting the Division's Records Unit by telephone at: (916) 341-5421.

Please note, however, that a Statement is NOT a water right. A Statement serves as a notification to the Division of the diversion and use of water by property owners whose claim of right may be based on either a pre-1914 appropriation or of the diversion and use of water pursuant to a riparian claim of right. The Division does not confirm these claims of right as the courts have retained jurisdiction. However, in order to receive the benefit of a pre-1914 appropriative claim of right (pre-14 right), the right holder should be able to document the following:

1. that a pre-14 right was properly initiated prior to 1914 by either: a) filing a notice with the county recorder; or b) taking the first step(s) to divert and use water via the construction of diversion and delivery works or the application of water to a beneficial use;
2. that the current diversion for beneficial use of water is no greater than the maximum amount that was occurring on December 19, 1914 or shortly thereafter if complete beneficial use had not yet occurred and diligent development of the right was in process;
3. that there has not been a period of 5 years or more when water was available to fully satisfy the right but such water was not put to beneficial use (in which case the right would degrade or deteriorate to the maximum amount that was diverted and put to beneficial use during the 5-year period of minimum use since 1914); and
4. that the basis of right that was initiated prior to December 19, 1914 has in fact been legally transferred from party to party until it rests with the current holder (i.e., that a clear chain-of-title from the initiator of the right to the current owner exists).

Riparian claims of right to divert water are supported by the California Supreme Court's determination that the riparian right is a property right predicated on the physical and geographic proximity of real property to a natural watercourse, and on the owner's beneficial use of water on land that is also riparian to that watercourse. The riparian water right does not limit the volume of water diverted, and it is not created by the use of water nor lost by its non-use. The landowner's past use and plans for future use are immaterial, as the riparian right cannot be lost but instead exists as a property right that can only be divested as the result of subdivision or abandonment.

Although the Cowan's claimed reliance on "pre-1914" rights in their answer to the complaint, their property and use of water for pasture irrigation conforms to the characteristics of a riparian claim of right. As indicated above, the courts have retained jurisdiction over both of these claims of right, and disputes among claimants must be resolved through civil action.

I hope this information addresses your questions.

Sincerely,

Michael Contreras
Division of Water Rights
(916) 341-5307
mcontreras@waterboards.ca.gov

>>> ellen pearson <epearson_prsco@hotmail.com> 10/20/2008 10:17 AM >>>

10/20/08

Dear Mr Contreras,

I regards to Dry Creek and John Cowan, could you possibley tell me which office I would be able to obtain the 1969 statement saying that Tedoc Ranch had a pre 1900 right to pump water. Also what is the statement number.

Thank You,

Ellen Pearson

When your life is on the go-take your life with you.
<http://clk.atdmt.com/MRT/go/115298558/direct/01/>



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

SURNAME/FILES

Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov



Arnold Schwarzenegger
Governor

OCT 31 2008

In Reply Refer to:
363:MC:262.0(52-19-02), S004730,
D031709R, & L031710

Ms. Ellen Pearson
1343 Redwood Way
Pacifica, CA 94044

Mr. John Hale
19254 Niles Lane East
Redding, CA 96002

Mr. John Cowan
2610 Sulphur Springs Avenue
St. Helena, CA 94574

Dear Ms. Pearson, Mr. Hale and Mr. Cowan:

WATER RIGHT COMPLAINT FILED BY ELLEN PEARSON AND JOHN HALE AGAINST JOHN COWAN, ALLEGING UNAUTHORIZED DIVERSION AND USE OF WATER FROM NELSON/DRY CREEK, TEHAMA COUNTY

Complaint Unit staff of the Division of Water Rights has completed their investigation of the complaints filed by Ellen Pearson and John Hale against Robinwood Vineyards, also known as John Cowan (Robinwood/Cowan). The water right complaints include the allegations that the diversion and uses of water on the Robinwood/Cowan property are unauthorized, and that the diversion adversely impacts the public trust resources in Nelson and Dry Creeks. A copy of the Staff Report of Investigation regarding this matter is enclosed. Complaint Unit staff reached the following conclusions:

1. The two small ponds on the Robinwood/Cowan property were initially found to be unauthorized. However, once these deficiencies were brought to the Cowan's attention, they diligently sought appropriate water rights and were subsequently issued Small Domestic Use Registration Certificate R750 for the operation of the "upper" pond, and Livestock Stockpond Registration Certificate L92 for the operation of the stockpond. Additionally, the Cowans possess what appears to be a valid riparian claim of right to divert any amount of water from Nelson Creek that will be applied to a reasonable, beneficial use on their property (as long as the use is made within the watershed of the stream).
2. The complainants indicated that they have contacted staff of the Department of Fish and Game (Department) regarding the dewatering of Dry Creek and the adverse impacts they claim the Cowan's diversion have on the public trust resources within downstream reaches. However, neither the complainants nor the Department have provided the Division with any supporting evidence of harm.

SURNAME
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California Environmental Protection Agency

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Ms. Ellen Pearson
Mr. John Hale
Mr. John Cowan

- 2 -

Therefore, it appears that all the current and proposed diversion and uses of water on the Robinwood/Cowan property have valid bases of right, and staff recommends closure of the complaints without further action. If either party to the complaint disagrees with the conclusions reached by Complaint Unit staff, please let me know which point remains unresolved, as well as the specific evidence you believe is available to substantiate or justify a different course of action. However, if we do not hear from you within 30 days from the date of this letter, we will assume that you agree with staff's conclusions and recommendation to close the complaint without further notice and are willing to withdraw your complaints.

If you have any questions regarding this matter, please contact me at (916) 341-5307.

Sincerely,

ORIGINAL SIGNED BY:

Michael Contreras
Complaint Unit

Enclosure

cc: CKW

MContreras:tvallejo 10.29.2008
U:\COMDRV\MContreras\Robinwood\Final ROI Transmittal Ltr.doc



Linda S. Adams
Secretary for,
Environmental Protection

State Water Resources Control Board

SURNAME/FILES



Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
FAX: 916.341.5400 ♦ www.waterrights.ca.gov

Arnold Schwarzenegger
Governor

MEMORANDUM

TO: Files: 262.0(52-19-02), S004730, D031709R & L031710

ORIGINAL SIGNED BY:

FROM: Michael Contreras
Environmental Specialist
COMPLAINT UNIT

DATE: OCT 31 2008

SUBJECT: WATER RIGHT COMPLAINT FILED BY ELLEN PEARSON AND JOHN HALE
AGAINST JOHN COWAN, ALLEGING UNAUTHORIZED DIVERSION AND
USE OF WATER FROM NELSON / DRY CREEK, TEHAMA COUNTY

Background

The State Water Resources Control Board's Division of Water Rights (Division) received a water right complaint from Ellen Pearson on September 14, 2007, against Robinwood Vineyards, aka John Cowan (Robinwood/Cowan). Ms. Pearson is a downstream neighbor whose complaint contains the allegation that Mr. Cowan diverts water to storage without a valid basis of right to do so, and that his diversion results in unreasonable and adverse impacts to the public trust resources in Dry Creek. Mr. Cowan was notified of the water right complaint filed against him on September 21, 2007. On September 25, 2007, Mr. Cowan telephoned the Complaint Unit to request additional time in which to prepare his answer to the complaint filed against him by Ms. Pearson. The letter from Charles Rich to Mr. Cowan, dated October 3, 2007, confirmed approval of the requested time extension and the exchange of information discussed by telephone. Subsequently, on October 12, 2007, the Division received a second water right complaint against John Cowan from John Hale, another downstream neighbor, claiming that Mr. Cowan's diversion completely dewateres downstream stretches of Dry Creek, resulting in fish kills and loss of aquatic life.

The Division received Mr. Cowan's answer to the complaint on October 15, 2007. The following pertinent information was provided:

- Water is not being stored. Instead there is a direct diversion that has served the property since the 1800s.
- Nelson Creek heads on and flows across the Robinwood property, thereby providing the basis for a riparian claim of right.

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CAR 10/30/08

- A water claim notice recorded in Tehama County on August 23, 1902, indicates the intent to divert 150 Miners Inches of water from Dry Creek or "Nelse's" Creek, thereby establishing pre-1914 appropriative water rights.

On October 19, 2007, the Division received additional information from Mr. Cowan in response to Mr. Rich's letter of October 3, 2007, confirming the presence of two ponds. The surface area of the "west" pond is approximately 1/3 acre. The "east" pond has a surface area of approximately 1/8 acre that "collects irrigation drainage for stock water and runs off into the creek." Mr. Cowan concludes with the claim that "all water usage is on the parcel of land that abuts the stream and only on land that drains back into the stream." Mr. Cowan also confirmed that the property was purchased from the VOA Tedoc Gap Ranch, and that Statement of Water Diversion and Use #S004730 has been reassigned to him.

On October 24, 2007, the Division received a letter from Ellen Pearson in which she transmitted a typewritten statement from Hubert G. McKinney and which reiterated the objectives she and Mr. Hale previously enumerated: restoration of original flows for the primary benefit of fish and wildlife. Mr. McKinney's statement indicates that he had leased the property and surrounding grazing lands as early as 1978, and that the prior owner had a 2 – 4" pipe extending from the creek to a small "reservation" above his house. Mr. McKinney claims to have later participated in the replacement of this conduit with a 6 – 8" PVC pipe.

On November 2, 2007, the Division notified Mr. Cowan of the water right complaint filed against him by John Hale, and requested clarification of the water diversion and use on the Robinwood/Cowan property. On November 7, 2007, Complaint Unit staff conducted a conference call with Mr. Cowan and agreed to inspect the Robinwood/Cowan property on December 12, 2007, and to meet separately with the complainants.

Field Investigation

Complaint Unit staff Michael Contreras and Charles NeSmith, met with the complainants at the Pearson residence on Tuesday, December 11, 2007. Although there was no evidence of recent precipitation, and the recent weather was unseasonably hot, Dry Creek was visibly running across the Pearson property. No measurement or estimate of flows was made. Concerned neighbors, including John Hale, Hubert McKinney, Bradley Haney, and Bill Smith participated in the water right discussion, as did Cyrus Herrera and Cyrus Herrera, Jr. as interested parties.

Complaint Unit staff explained that the purpose for the field inspection was to determine how water is diverted and used on the Robinwood/Cowan property and confirmed that the complainants' predominant concern is that they believe Mr. Cowan's year-round direct diversion from Nelson Creek is unreasonable. The complainants maintain that surface flows in Nelson Creek are significantly diminished during the drier periods of the year as the result of the diversion, that the Robinwood/ Cowan diversion deprives water to the downstream reaches past the confluence of Nelson and Dry Creeks, and that Cowan's actions unreasonably dewater Dry Creek to the detriment of the public trust resources. Several of the meeting participants own downstream property that may also be riparian to Dry Creek, but of the complainants and concerned citizens present, only Bradley Haney collects water to storage pursuant to two appropriative water rights (Licenses 6753 and 7669). Mr. Haney explained that he has owned his property for about five years and that, during the driest periods, he is sometimes unable to

keep his reservoirs full. However, Mr. Haney indicated that he has not yet used water for any eligible, beneficial purpose. Mr. Haney's licenses authorize him to divert water from Dry Creek to seasonal storage, with the following limitations:

- License 6753 authorizes the collection of up to 16 acre-feet of water to seasonal storage from about November 1st through April 30th of the following year for purposes of irrigation of 1.5 acres, and domestic and stockwater uses.
- License 7669 authorizes the collection of up to 3 acre-feet of water to seasonal storage from about November 1st through February 28th of the following year for purposes of stockwater and recreational uses.

On Wednesday, December 12, 2007, Complaint Unit staff met with John and Christy Cowan near their property. The Robinwood/Cowan Ranch is located in western Tehama County, south of Highway 36, near Platina. Mr. Cowan indicated that multiple artesian springs surface on his property in the mountainous regions to the west of the ranch headquarters that contribute water to Nelson Creek. Nelson Creek originates near the south side of the Cowan's ranch and converges with Dry Creek on the Robinwood/Cowan property. The U.S. Geological Survey topographic maps for this area indicate that Nelson Creek becomes Dry Creek, a perennial stream, below the Cowan/Robinwood Ranch. The Cowans first led Complaint Unit staff to a ford crossing of Dry Creek in order to illustrate that surface flow was then occurring before leading the way across Robinwood/Cowan property to a small bridge crossing Nelson Creek, just north of the ranch headquarters. Although no measurements were taken, Nelson Creek was flowing at this location.

The inspection party next traveled upstream to the point of diversion (POD) in order to observe where and how water is diverted from Nelson Creek. Mr. Cowan explained that he seasonally constructs a hand-stacked rock dam on a shelf across Dry Creek in order to form a pool on the south side adjacent to his diversion intake chamber. On December 12, 2007, the rock dam was pooling approximately half of the Nelson Creek flow to a depth of about 8", bypassing the remaining flow to downstream reaches. An intake gallery is situated on the south side that conveys collected water underground, through an 8" diameter pipeline, to the upper pond. On December 12, 2007, the water level in the intake gallery just covered the entire pipe orifice. No flow measurements were made. See photographs and an aerial view of the ranch at pages 8 and 9.

The pipeline from the POD discharges water into the northern-most corner of the triangular-shaped pond near the dam. This upper pond covers a surface area of approximately 0.5 acres, has an average depth of 4', and has an estimated storage capacity of 2 acre-feet. The dam is approximately 190' long, 8' wide and has a maximum height of 12', effectively backing water into a small draw to the west. A gate valve is situated near the dam on the southernmost corner of the pond that discharges flow into a highline ditch. This ditch continues in a generally southern direction at a gradual slope for a distance of approximately 1,000 feet. Intermittent low areas provide avenues for the distribution of water downgrade for pasture irrigation. At the southernmost area of the clearing the discharged irrigation water converges with natural channels that move more concentrated flows downgrade and to the east where water accumulates in a stockwatering pond.

The stockwater pond is situated to the southeast of the upper pond. The facility has an 8' wide dam on its eastern side with a maximum height of 8'. A 10" diameter culvert is installed through the northernmost part of the dam that bypasses water in excess of the estimated 0.4 acre-feet storage capacity to the natural channel continuing downgrade below the facility. This drainage converges with Dry Creek on Robinwood/Cowan property. On December 12, 2007, water was flowing into and spilling from this pond, and there was surface flow at the convergence of Dry Creek and Nelson Creek.

Complaint Unit staff did not observe any indications of waste or unreasonable use of water or unreasonable method of diversion during the inspection. Although Mr. Cowan was unable to demonstrate a valid basis of right to seasonally divert water from Nelson Creek to seasonal storage¹, he did indicate his willingness to diligently pursue appropriative rights to operate the two ponds on his property.

Subsequent to the field inspection, on February 13, 2008, Complaint Unit staff met with the Cowans at the Division's offices. Staff explained that the diversion and use of water for irrigation purposes appeared to be appropriate pursuant to a riparian claim of right, and that they should continue to submit periodic Statements of Water Diversion and Use (S004730). However, the two reservoirs cannot be supplied with water pursuant to a riparian claim of right because water would be seasonally stored. The operation of these water storage facilities could be covered with registrations as long as irrigation from each one is limited to no more than ½ acre. The lower pond has never been used for irrigation purposes. However, the upper pond does receive all irrigation flows under a riparian claim of right. To rectify this situation, Mr. Cowan agreed to construct a valved bypass at the upper pond to separate water intended for irrigation from his domestic supply that would be contained in this pond. Mr. Cowan also agreed to prepare and submit two registration applications to cover his diversions to seasonal storage – one for Small Domestic Use and one for his Livestock Stockpond. Mr. Cowan submitted the applications to the Department of Fish and Game (Department) per the instructions outlined in Water Code Section 1228. Subsequently, on August 22, 2008, Certificates were issued: R750 covers Robinwood/Cowan's domestic uses at the upper reservoir, and Certificate L92 covers the operation of the stockpond. Both Registrations are limited by the State Water Board Decision 1594 that restricts the season of diversion, pursuant to the Fully Appropriated Stream (FAS) listing, to the period extending between September 1st and June 14th of the following year², and are scheduled for renewal prior to their fifth year anniversary – May 13, 2013.

Analysis

Ellen Pearson and John Hale's water right complaints both contain the allegation that the water storage facilities situated on property owned by Robinwood/Cowan are unauthorized and that their year-round diversion and use of water is unreasonable.

¹ The "seasonal storage" of water is generally defined as the collection of water during a period of excess flow for use during a period of deficient flow. Seasonal storage cannot be accomplished under a riparian claim of right. Instead, the property owner must secure an appropriative water right.

² As such both facilities must either be full on June 14th and maintained that way until September 1 so that all inflow exits the ponds or they must be operated so that no diversion to seasonal storage occurs during this period.

The Cowans appear to have a valid riparian claim of right as the property served and the water diverted meet the following conditions:

- Nelson and Dry Creeks both touch the Robinwood/Cowan property,
- all of the water diverted is used beneficially on land that is within the watershed created by both creeks,
- all of the water use for pasture irrigation is directly diverted and not water that has been seasonally stored and,
- all of the water in Nelson and Dry Creeks appears to be natural flow subject to diversion and use pursuant to a valid riparian claim of right.

Therefore, consistent with California water law, the Cowans are entitled to directly divert as much water as is necessary to sustain the beneficial uses on their property, providing that their use of water is neither wasteful nor unreasonable. The complainants have not provided evidence that the Cowan's use of water is wasteful or that it is put to non-beneficial uses.

The courts have retained jurisdiction over riparian water rights. In the event that Nelson and Dry Creeks are incapable of producing sufficient water to supply all of the riparian demands within the watershed, an aggrieved party must seek dispute resolution through the Superior Court in and for Tehama County, as the State Water Board has no authority to adjudicate such disputes. The California Supreme Court has determined that the riparian right is not created by the use of water nor lost by non-use. The landowner's past use and plans for future use are immaterial, as the riparian right cannot be lost by nonuse but instead exists as a property right that can only be divested as the result of subdivision or abandonment.

Although the small ponds on the Robinwood/Cowan property were determined to be unauthorized at the time of the investigation, Mr. Cowan has taken corrective action and was subsequently issued Small Domestic Use Registration Certificate R750 for the operation of the "upper" pond, and Livestock Stockpond Registration Certificate L92 for the operation of the stockpond. These certificates limit diversions to seasonal storage to the winter, high-flow period of the year when there is sufficient flow bypassing the point of diversion to meet all the downstream demands of prior right holders.

The complainants and interested parties have also expressed their desire for year-round flow in Dry Creek as it crosses their properties, and suggested that the Robinwood/Cowan diversion has unreasonably and adversely impacted the resident public trust resources. Many of the properties owned by the complainants and interested parties also appear to have characteristics that indicate that they may hold valid riparian claims of right to available natural flow. Consequently, these property owners and the Cowans would be entitled to a correlative share of available flows for consumptive and beneficial uses such as domestic and pasture irrigation. To date, however, the complainants have only made a demand for water flow for aesthetic purposes.

According to California water law, as explained by Wells A. Hutchins in his book entitled The California Law of Water Rights, beginning on Page 182:

The preservation of a vested riparian right does not depend upon the riparian owner's participation in the use of the water, as against other riparian proprietors. The right is not destroyed or impaired by the fact that the riparian owner has not yet used the water on his riparian lands, or that he has no present intention of doing so. That is to say, the riparian right is perpetual, whether exercised or not [underline added].

But, on Page 183, he continues:

The right of the riparian owner entitles him to have the stream of water flow to his land; but this privilege is not unrestricted where others upstream have lawful claims upon the water. The riparian owner may protect his right against substantial infringement, but he cannot demand as of right an injunction restraining "all persons who are not riparian owners from diverting any water from the stream at points above him simply because he wishes to see the stream flow by or through his lands undiminished and unobstructed."

Then on Page 245, Mr. Hutchins concludes:

...that a riparian owner has no right, as against other riparian owners, "to insist on the full flow of the stream over his land for the mere pleasure of looking at it as a feature of the landscape, or for no purpose other than to afford him pleasure in its prospect."

Consequently, the complainants and interested parties do not presently appear to have a valid right to demand that the Cowans bypass flows that they take under control and use beneficially, and without waste, for pasture irrigation. However, as the Cowans can typically make use of all of the summertime flows in Nelson Creek that reach their point of diversion, their diversions can and do dewater the downstream reaches during the drier periods of the year.

Section 5937 of the Fish and Game Code states:

"The owner of any dam shall allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around or through the dam, to keep in good condition any fish that may be planted or exist below the dam. During the minimum flow of water in any river or stream, permission may be granted by the department to the owner of any dam to allow sufficient water to pass through a culvert, waste gate, or over or around the dam, to keep in good condition any fish that may be planted or exist below the dam, when in the judgement of the department, it is impracticable or detrimental to the owner to pass the water through the fishway."

What constitutes "sufficient water" is hard to define on a stream such as Dry Creek because very little information exists regarding the nature and needs of the public trust resources within the watershed. Complaint Unit staff understands that the complainants contacted the Department's regional office on multiple occasions

regarding low or no flows in Dry Creek, and that Department staff has inspected both Dry and Nelson Creeks several times. The Department, however, has *not* asked the Cowans to modify their diversion operations as the result of the complainant's concerns or their own observations. Nevertheless, the Department's comments about the Cowan's diversions, as proposed in their Small Domestic Use registration and Livestock Stockpond registration applications, stipulate that diversions should be limited to half of the available flow in Nelson Creek – bypassing the remaining flows to downstream reaches – whenever the Cowans divert pursuant to their registrations (i.e., September 1 to June 14 and water is being diverted to seasonal storage). However, unless and until the Department or any other party provides compelling evidence to demonstrate that the Cowan's diversions both exceeds half of the available flow in Nelson Creek and that excessive diversions result in an unreasonable, adverse impact to the public trust resources, Complaint Unit staff do not believe it appropriate to recommend enforcement action against the Cowans.

Conclusions

The water right complaints submitted by Ms. Pearson and Mr. Hale include the allegations that the diversion and uses of water on the Robinwood/Cowan property is unauthorized, and that the diversion adversely impacts the public trust resources in Nelson and Dry Creeks.

- The two small ponds on the Robinwood/Cowan property were initially found to be unauthorized. However, once these deficiencies were brought to the Cowan's attention, they diligently sought appropriative water rights and were subsequently issued Small Domestic Use Registration Certificate R750 for the operation of the "upper" pond, and Livestock Stockpond Registration Certificate L92 for the operation of the stockpond. Additionally, the Cowans possess what appears to be a valid riparian claim of right to divert any amount of water from Nelson Creek that will be applied to a reasonable, beneficial use on their property (as long as the use is made within the watershed of the stream).
- The complainants indicated that they have contacted staff of the Department regarding the dewatering of Dry Creek and the adverse impacts they claim the Cowan's diversion have on the public trust resources within downstream reaches. However, neither the complainants nor the Department have provided the Division with any supporting evidence of harm.

Therefore, it appears that all the current and proposed diversion and uses of water on the Robinwood/Cowan property have valid bases of right. Nevertheless, the methods and purposes of use must be reasonable. Mr. Cowan should closely monitor his diversion and adjust his intake to ensure maximum efficiency and that water is not unnecessarily diverted or wasted.

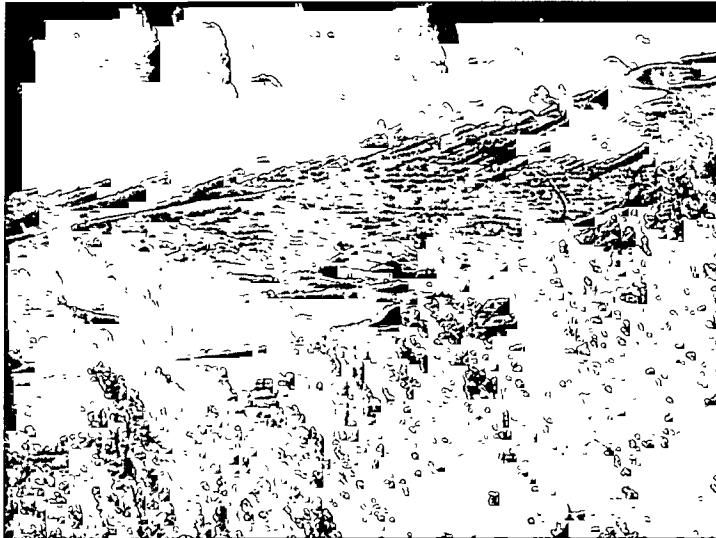
Recommendation

MContreras:tvallejo 10.29.2008

U:\COMDRV\MContreras\Robinwood\Final ROI.rtf.doc

That the complaints against the Cowans be closed without further action.

PHOTOS



The Robinwood/Cowan Ranch Headquarters and predominant area of pasture irrigation.



The Point of Diversion (POD) on Nelson Creek. The intake chamber is on the left.



Aerial view of the Robinwood/Cowan Ranch. The Point of Diversion is at upper left of photo. Collected water is piped to the **Upper Pond** where it is either seasonally stored pursuant to the Small Domestic Registration #D031709R, or bypassed to the highline ditch for pasture irrigation. The **Stockpond** is at lower right – authorized by Livestock Stockpond registration #L031710. The area outlined in green depicts Robinwood/Cowan's pasture irrigation.

From: Michael Contreras
To: pearson, ellen
Date: 10/21/2008 10:16 AM
Subject: S004730
Attachments: S004730.pdf

Ms. Pearson,

The Statement of Water Diversion and Use (Statement S004730) that you refer to was initially filed with this office by I.H. Storer in 1969. This document reports the diversion and use of water that may have begun as early as 1900. The file for this Statement includes a handwritten document that is dated June 9, 1902, and titled, "Water Claim Notice." Documents on file indicate that the Statement was subsequently transferred to Richard and Dona Metzger in March 1995. The VOA Tedoc Gap Ranch, LLC later assumed the registry of the Statement, and in November 2007, S004730 was assigned to the Cowans, doing business as Robinwood Vineyards. Per your request, a copy of the initial Statement is attached in "pdf" format. The correspondence file for Statement S004730 can be viewed in our offices or arrangements can be made to obtain a full copy of the documents contained therein by contacting the Division's Records Unit by telephone at: (916) 341-5421.

Please note, however, that a Statement is NOT a water right. A Statement serves as a notification to the Division of the diversion and use of water by property owners whose claim of right may be based on either a pre-1914 appropriation or of the diversion and use of water pursuant to a riparian claim of right. The Division does not confirm these claims of right as the courts have retained jurisdiction. However, in order to receive the benefit of a pre-1914 appropriative claim of right (pre-14 right), the right holder should be able to document the following:

1. that a pre-14 right was properly initiated prior to 1914 by either: a) filing a notice with the county recorder; or b) taking the first step(s) to divert and use water via the construction of diversion and delivery works or the application of water to a beneficial use;
2. that the current diversion for beneficial use of water is no greater than the maximum amount that was occurring on December 19, 1914 or shortly thereafter if complete beneficial use had not yet occurred and diligent development of the right was in process;
3. that there has not been a period of 5 years or more when water was available to fully satisfy the right but such water was not put to beneficial use (in which case the right would degrade or deteriorate to the maximum amount that was diverted and put to beneficial use during the 5-year period of minimum use since 1914); and
4. that the basis of right that was initiated prior to December 19, 1914 has in fact been legally transferred from party to party until it rests with the current holder (i.e., that a clear chain-of-title from the initiator of the right to the current owner exists).

Riparian claims of right to divert water are supported by the California Supreme Court's determination that the riparian right is a property right predicated on the physical and geographic

proximity of real property to a natural watercourse, and on the owner's beneficial use of water on land that is also riparian to that watercourse. The riparian water right does not limit the volume of water diverted, and it is not created by the use of water nor lost by its non-use. The landowner's past use and plans for future use are immaterial, as the riparian right cannot be lost but instead exists as a property right that can only be divested as the result of subdivision or abandonment.

Although the Cowan's claimed reliance on "pre-1914" rights in their answer to the complaint, their property and use of water for pasture irrigation conforms to the characteristics of a riparian claim of right. As indicated above, the courts have retained jurisdiction over both of these claims of right, and disputes among claimants must be resolved through civil action.

I hope this information addresses your questions.

Sincerely,

Michael Contreras
Division of Water Rights
(916) 341-5307
mcontreras@waterboards.ca.gov

>>> ellen pearson <epearson_prsco@hotmail.com> 10/20/2008 10:17 AM >>>

10/20/08

Dear Mr Contreras,

I regards to Dry Creek and John Cowan, could you possibly tell me which office I would be able to obtain the 1969 statement saying that Tedoc Ranch had a pre 1900 right to pump water. Also what is the statement number.

Thank You,

Ellen Pearson

When your life is on the go--take your life with you.
<http://clk.atdmt.com/MRT/go/115298558/direct/01/>

Michael Contreras

From: ellen pearson <epearson_prsco@hotmail.com>
To: Michael Contreras <mcontreras@waterboards.ca.gov>
Date: 10/20/2008 10:18 AM

10/20/08

Dear Mr Contreras,

I regards to Dry Creek and John Cowan, could you possibly tell me which office I would be able to obtain the 1969 statement saying that Tedoc Ranch had a pre 1900 right to pump water. Also what is the statement number.

Thank You,

Ellen Pearson

When your life is on the go—take your life with you. Try Windows Mobile® today

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
STATEMENT OF WATER DIVERSION AND USE

S 4730

This statement should be typewritten or legibly written in ink.

A. Name of person diverting water I. H. Storer
Address P.O. Box 1045 Red Bluff, Ca.
B. Name of body of water at point of diversion Dry Creek
Tributary to Cottonwood Creek, S.E. 1/4 Sec. 35, T29N, R9W, MD B&M
C. Place of diversion SW 1/4, SW 1/4, Section 35, Township 29N, Range 9W, MD B&M, Tehama County, or locate it on sketch of section grid on reverse side with regard to section lines or prominent local landmarks.

D. Name of works _____

E. Capacity of diversion works L.C.F.S. cubic feet per second
Capacity of storage reservoir Regulatory System gallons per minute
State quantity of water used each month in gallons or acre-feet gallons
acre-feet

Year	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total Annual
	1	1	1	1	1	1	1	1	1	1	1	1	1

If monthly and annual use are not known, check months in which water was used. State extent of use in units, as acres of each crop irrigated, average number of persons served, number of stock watered, etc. Domestic - 5 persons gardens etc., 20-30 Head of Stock Watering, 6 ac. Pasture irrigated.
Maximum annual water use in recent years Approx. Average 0.1 S.F.S. gallons
Minimum annual water use in recent years Same acre-feet
Type of diversion facility: gravity ☒, pump _____

Method of measurement: weir _____, flume _____, electric power meter _____, water meter _____, estimate ☒

F. Purpose of use (what water is being used for) Domestic, Stockwatering
Irrigation

G. General description or location of place of use (use sketch of section grid on reverse side if you desire)
SW 1/4 + SE 1/4 of SW 1/4 Sec 35 T29N R9W MD B&M

H. Year of first use as nearly as known 1900

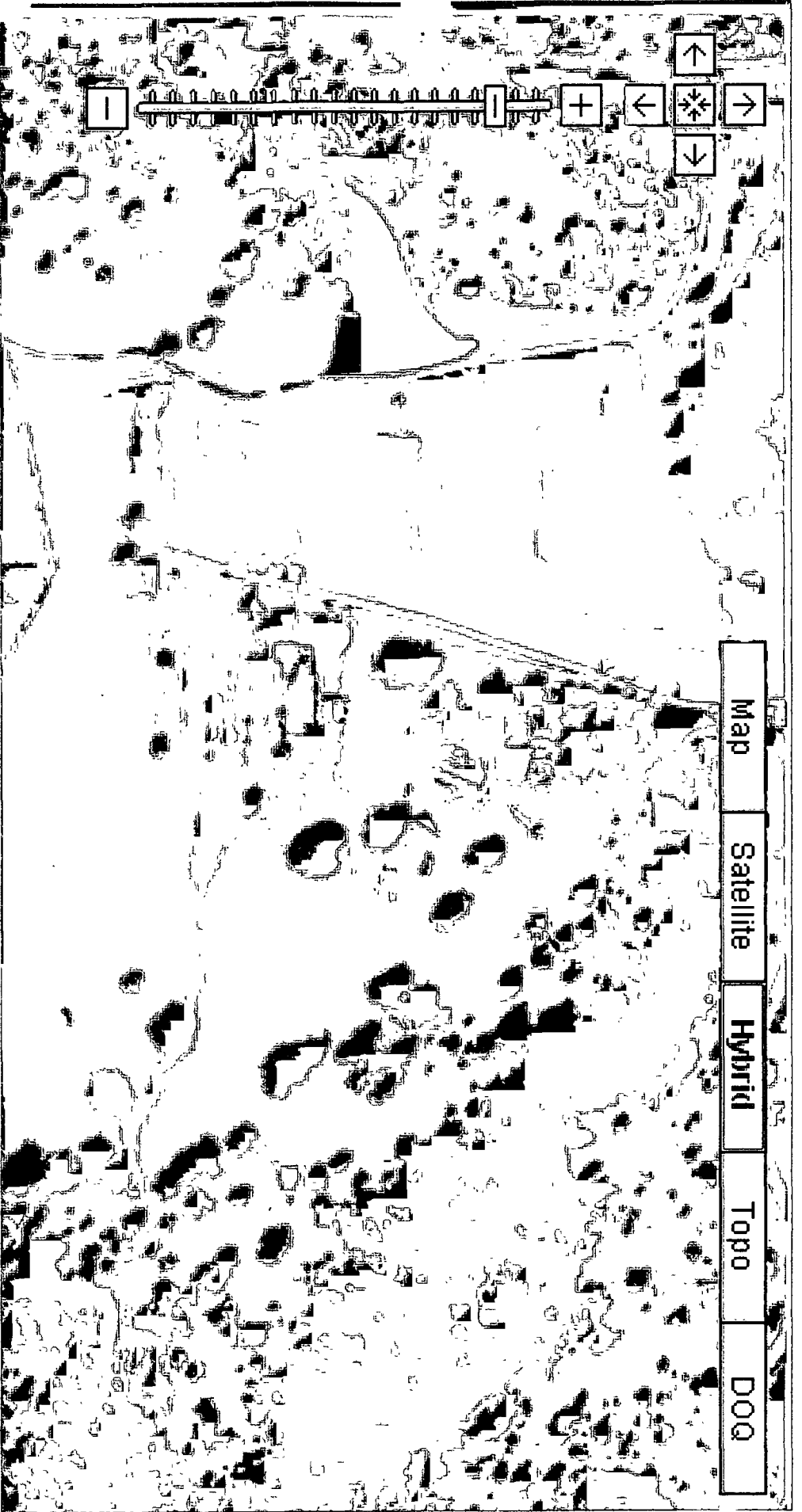
I. Name of person filing statement I. H. Storer
Position Owner Organization _____
Address 1045 P.O. Box Red Bluff Ca.

I certify that the foregoing statements are true and correct to the best of my knowledge and belief.

Date signed 4/10/69 Signature I. H. Storer

See Instructions on Reverse Side





From: Susan Wilson
To: Contreras, Michael
Date: 4/16/2008 10:31:11 AM
Subject: Robinwood Vineyards (Cowan) SDU, LSU

Michael, I need to put these two to bed...(mailed). Regarding the LSU, does Cowan release water that is diverted in the ditch from the SDU pond to the LSU pond, or does it just seep out of the ditch. I need to determine if the water from Nelson Creek is being purposely diverted to the LSU via the ditch and the other pond. And the quarter, quarter of the POD. And if there is only one POD for SDU and Statement...

Did you forget me?

Susan



State Water Resources Control Board



Linda S. Adams
Secretary for
Environmental Protection

Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterrights.ca.gov

Arnold Schwarzenegger
Governor

NOV 07 2007

The VOA Tedoc Gap Ranch, LLC
P.O. Box 4133
Napa, CA 94558

Dear VOA Tedoc Gap Ranch Staff:

STATEMENT OF WATER DIVERSION AND USE NUMBER S004730

The State Water Resources Control Board's (State Water Board) Division of Water Rights (Division) was recently informed that property previously owned by VOA Tedoc Gap Ranch is now owned by Robinwood Vineyards (Tehama County APNs 001-120-01, 001-120-02, 001-120-04, and 001-050-28). Nelson Creek crosses some of these properties and apparently contributes to water diverted for the irrigation of vineyard pursuant to riparian and/or pre-1914 claims of right.

At present, the Division's records indicate that Statement S004730 is held by VOA Tedoc Gap Ranch, and Jean A. Abadie is identified as the agent. We now understand that that VOA Tedoc Gap Ranch LLC no longer has an interest in the property, and that ownership of the Statement should be registered as:

Robinwood Vineyards
Attention John Cowan
2610 Sulphur Springs Avenue
St. Helena, CA 94574

We will proceed with Mr. Cowan's requested change of name and address unless we hear back from you to the contrary within 30 days.

Sincerely,

ORIGINAL SIGNED BY:

Michael Contreras
Environmental Specialist
Complaint Unit

cc: Robinwood Vineyards
Attention John Cowan
2610 Sulphur Springs Avenue
St. Helena, CA 94574

*surema
Siv 4/10/08*

Mcontreras:rccelebrado 11.2.2007

SURNAME\COMDRV\MContreras\The VOA Tedoc Gap Ranch.doc

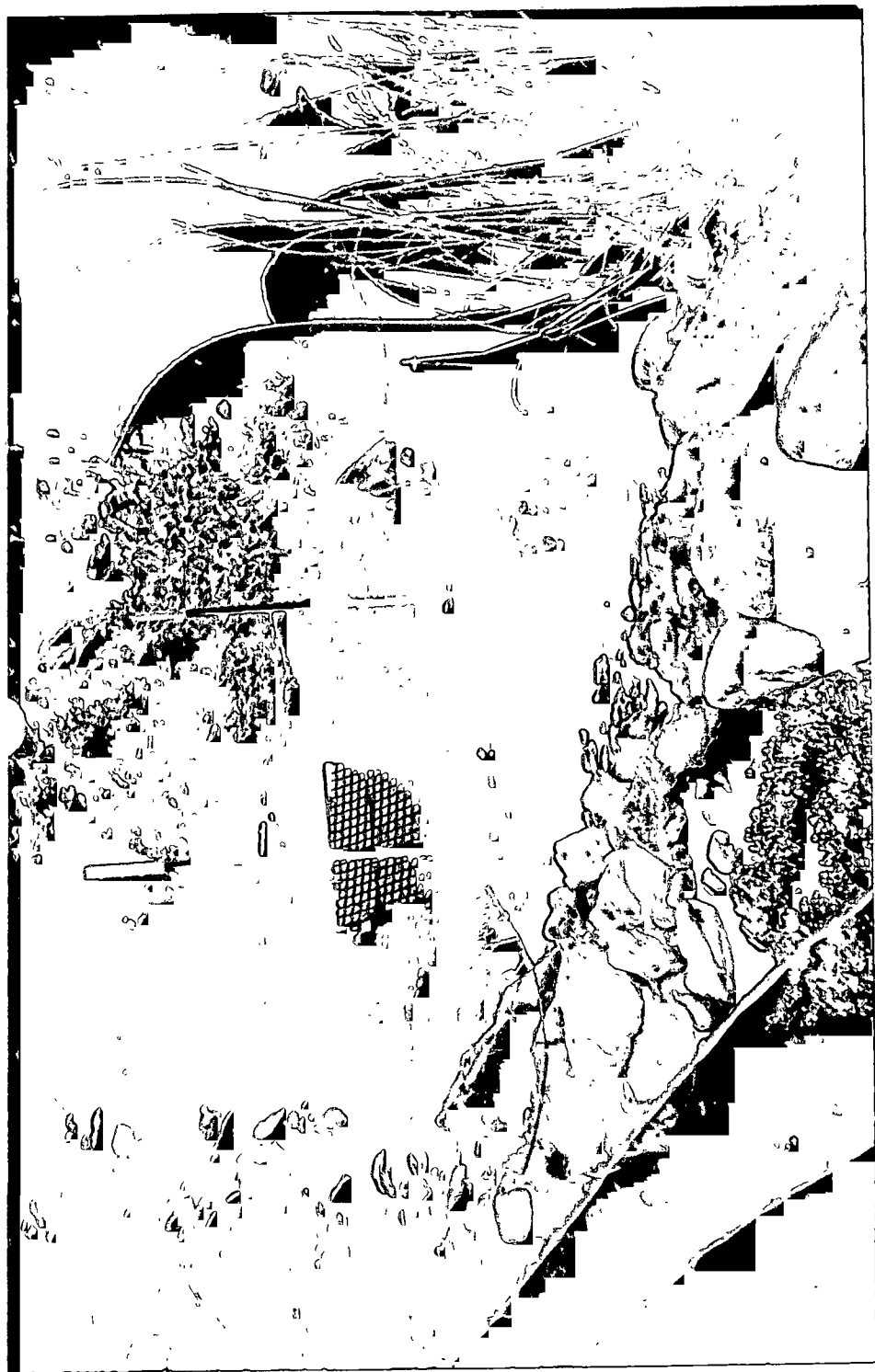
ME 11/5/07

CAK

11/5/07

California Environmental Protection Agency

Recycled Paper



State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400, Web: <http://www.waterrights.ca.gov>

NOTICE OF ASSIGNMENT

State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000

Gentlemen:

I have assigned all my right, title, and interest in STATEMENT

Application _____, Permit 4730, License _____

on file with the State Water Resources Control Board to:

JOHN and JANE COWAN
ROBINWOOD VINEYARDS

whose address is:

2610 SULPHUR SPRINGS AVE.
(Address)
ST. HELENA CA.
(City)
94547
(State) (Zip code)

Telephone No. () _____

THE VOA TEDOC GAP RANCH, LLC
(Name)

Dean A. White, Managing Partner
(Signature)

Telephone No. 707 235 0368

Dated: 2/2/06

initials
SW
4/10/08



State Water Resources Control Board



Linda S. Adams
Secretary for
Environmental Protection

Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterrights.ca.gov

Arnold Schwarzenegger
Governor

NOV 07 2007

The VOA Tedoc Gap Ranch, LLC
P.O. Box 4133
Napa, CA 94558

Dear VOA Tedoc Gap Ranch Staff:

STATEMENT OF WATER DIVERSION AND USE NUMBER S004730

The State Water Resources Control Board's (State Water Board) Division of Water Rights (Division) was recently informed that property previously owned by VOA Tedoc Gap Ranch is now owned by Robinwood Vineyards (Tehama County APNs 001-120-01, 001-120-02, 001-120-04, and 001-050-28). Nelson Creek crosses some of these properties and apparently contributes to water diverted for the irrigation of vineyard pursuant to riparian and/or pre-1914 claims of right.

At present, the Division's records indicate that Statement S004730 is held by VOA Tedoc Gap Ranch, and Jean A. Abadie is identified as the agent. We now understand that that VOA Tedoc Gap Ranch LLC no longer has an interest in the property, and that ownership of the Statement should be registered as:

Robinwood Vineyards
Attention John Cowan
2610 Sulphur Springs Avenue
St. Helena, CA 94574

We will proceed with Mr. Cowan's requested change of name and address unless we hear back from you to the contrary within 30 days.

Sincerely,

ORIGINAL SIGNED BY:

Michael Contreras
Environmental Specialist
Complaint Unit

cc: Robinwood Vineyards
Attention John Cowan
2610 Sulphur Springs Avenue
St. Helena, CA 94574

Mcontreras:rcelebrado 11.2.2007

SURNAME\COMDRV\MContreras\The VOA Tedoc Gap Ranch.doc

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SIC 4/10/08

State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400, Web: <http://www.waterrights.ca.gov>

NOTICE OF ASSIGNMENT

State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000

Gentlemen:

I have assigned all my right, title, and interest in STATEMENT

Application _____, Permit 4730, License _____

on file with the State Water Resources Control Board to:

JOHN and JANE COWAN
ROBINWOOD VINEYARDS

whose address is:

2610 SULPHUR SPRINGS AVE.
(Address)
ST. HELENA CA.
(City)
94547
(State) (Zip code)

Telephone No. () _____

THE VOA TEDOC GAP RANCH, LLC
(Name)

Jean A. White, Managing Partner
(Signature)

Telephone No. 707 235 0368

Dated: 2/2/06

*mailed
S/W
4/10/08*

State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
1001 I Street, 14th Floor, Sacramento, CA 95814
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400, Web: <http://www.waterrights.ca.gov>

JANE FAR WELL
STATEMENT OF WATER DIVERSION AND USE

2006 JAN -3 PM 3:18

DIVISION OF WATER RIGHTS
SACRAMENTO

(This is not a Water Right)
This Statement should be typewritten or legibly written in ink and submitted to the address above.
A separate statement should be filed for each point of diversion. A duplicate copy will be returned for your file.

A. Name of person diverting water THE VOA TE DOC GAP RANCH, LLC
Address 5295 TE DOC GAP ROAD
PLATINA, CA 96076 Telephone: 707 235 0368
Water is used under: Riparian claim: Pre 1914 right: ✓ 1902 Other (explain) ✓

C. Name of the body of water at the point of diversion
NELSEN CREEK

Tributary to TEHAMA County on Assessors Parcel # , being

D. Point of diversion is located within TEHAMA County on Assessors Parcel # , being
within the SW 1/4 of SW 1/4 of Section 35, of Township 29N Range 9W MD B&M.
Name of works

E. Do you own the land at the point of diversion? Yes ✓ NO The name and address of the owner of the land is:
A. ACQUE

F. Capacity of diversion works SEE ATTACHED (cfs, gpm, or gpd) Capacity of storage tanks or reservoir (X) (gallons or acre-feet)

Type of diversion facility: Gravity ✓ Pump

G. Method of measurement: Weir Flume Electric Meter Estimate ✓

H. Enter the amount (or approximate amount) of water used each month.

I. Amounts below are shown in: Gallons X Acre-feet Other

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total Annual
2005	SEE	ATTACHED											884 BILLION GALLONS

H. Annual water use in recent years: Maximum 884 BILLION (gallons or acre-feet) Minimum 884.0 BILLION (gallons or acre-feet)

Year of first use (nearly as known): 1902

I. Purpose of use: What is the water being used for: (example, number of acres and type of crop irrigated, average number of persons served, number of stock watered, etc.) GRAPE VINES, ORCHARD, GRAZING PASTURES

J. General description or location of place of use (example: 40 acres of pasture located 3 miles from Happyville on Alpha Road)
1687 ACES 5 MILES FROM PLATINA

K. Map: Please locate the point of diversion and place of use on a print of a USGS quad map, or make a sketch on the section grid provided on the reverse side of this form. The sketch should identify the section lines, prominent local landmarks and roads, your point of diversion, and your place of use (your house, acreage irrigated, etc.).

L. Please answer only those questions below which are applicable to your project.

Additional copies of this form and water right information can be obtained at www.waterrights.ca.gov.

1. Conservation of water
 - a. Describe any water conservation efforts you may have started: WATER MOVED BY PIPE TO MINIMIZE EVAPORATION.
2. Water quality and wastewater reclamation
 - a. Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility or water polluted by waste to a degree which unreasonably affects such water for other beneficial uses? YES ☐ NO ☒

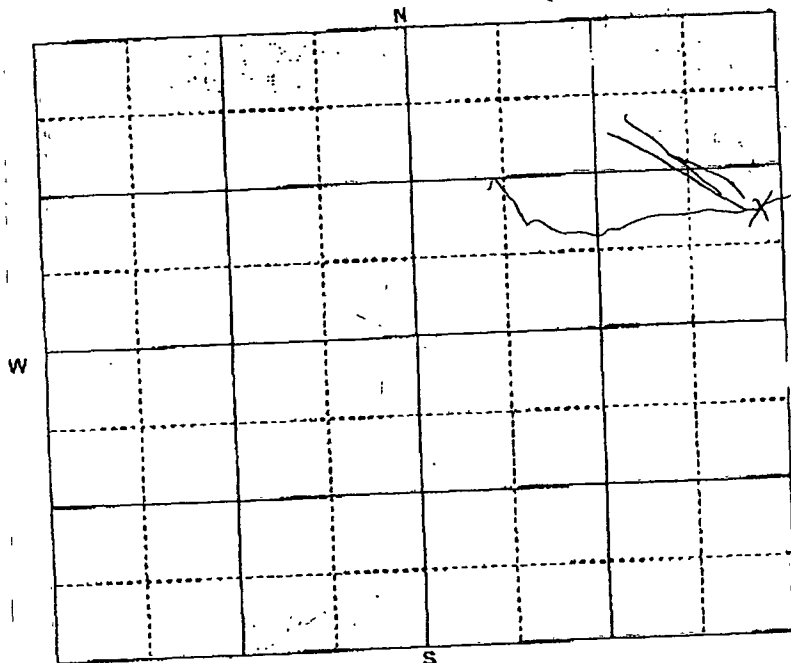
I declare under penalty of perjury that the information in this report is true to the best of my knowledge and belief.

DATE: 1/2/95 at NAPA, California

SIGNATURE: Jean A. Cordie

PRINTED NAME: JEAN A CORDIE
(first name) (middle init.) (last name)

COMPANY NAME: THE VOA TE DOC EAP RANCH, LLC.



The location of the diversion point and the place of use may be sketched on the section grid provided. If it is used, please enter the section(s), township, range and the base & meridian below. Also, show any streams or other landmarks that will assist in identifying the area.

Section(s) 35

Township 29

Range 33

B&M

GENERAL INFORMATION PERTAINING TO WATER RIGHTS IN CALIFORNIA

There are two principal types of surface water rights in California. They are riparian and appropriative rights.

A riparian right enables an owner of land bordering a natural lake or stream to take and use water on his riparian land. Riparian land must be in the same watershed as the water source and must never have been severed from the source of supply by an intervening parcel without reservation of the riparian right to the severed parcel. Generally, a riparian water user must share the water supply with other riparian users. Riparian rights may be used to divert the natural flow of a stream but may not be used to 1) store water for later use 2) divert water which originates in a different watershed 3) divert water released from storage, or 4) divert return flows from groundwater use.

An appropriative right is required for use of water on nonriparian land and for storage of water. Generally, appropriative rights may be exercised only when there is a surplus not needed by riparian water users. Since 1914 new appropriators have been required to obtain a permit and license from the State.

Statements of Water Diversion and Use must be filed by a riparian and pre-1914 appropriative water users. The filing of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their diversion, and (3) assists the State to determine if additional water is available for future appropriators.

The above discussion is provided for general information. For more specific information concerning water rights, please contact an attorney or write to this office. We have several pamphlets available. They include: (1) Statements of Water Diversion and Use, (2) Information Pertaining to Water Right in California and (3) Appropriation of Water in California.

01/02/2006

**Attachement to Statement of Water Diversion and Use
For the Year of 2005**

THE VOA Tedoc Gap Ranch, LLC.
PO Box 4133
Napa, CA 94558
707-258-2820

Statement of Daily Water use for cattle grazing, vineyard, orchard, and irregation:

Our water rights established August 23, 1902, see Attached, as recorded in
Tehama County claimed 150 miners' inches or

Total Miners' Inches Used Daily	150
Fourty miners inches is equal to	646,317 US Gallons per day
Total water used daily	2,423,689 US Gallons per day
Total water used per year	884,646,485 US Gallons

Monthly Usage	days	
January	31	75,134,359
February	28	67,863,292
March	31	75,134,359
April	30	72,710,670
May	31	75,134,359
June	30	72,710,670
July	31	75,134,359
August	31	75,134,359
September	30	72,710,670
October	31	75,134,359
November	30	72,710,670
December	31	75,134,359
Totals		884,646,485



n H. Hickox
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STATE WATER RESOURCES CONTROL BOARD

Division of Water Rights

901 P Street - Sacramento, California 95814 • (916) 657-0765
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 657-1485 • Web Site Address: <http://www.swrcb.ca.gov>
Division of Water Rights: <http://www.waterrights.ca.gov>

Gra
Go

NOTICE OF ASSIGNMENT

State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000

STATE WATER RIGHTS
SACRAMENTO

2004 FEB 17 AM 8:45

Ladies and Gentlemen:

I have assigned all my right, title, and interest in my Statement of Water Diversion and Use,

Statement Number 4730

on file with the State Water Resources Control Board to:

THE VOA TEDOC GAP RANCH, LLC

whose address is:

2056 West Lincoln Way

(Address)

Napa

(City)

California

(State)

94558

(Zip code)

Telephone No. ()

Irving H. Storer
(Signature) Irving H. Storer

(Signature)

3/10/04
changed



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Water Rights

901 P Street • Sacramento, California 95814 • (916) 657-2170
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 657-1485 • Web Site Address: <http://www.swrcb.ca.gov>
Division of Water Rights: <http://www.waterrights.ca.gov>



Gray Davis
Governor

SEP 01 1999

In Reply Refer
to:332:TNS:4730

Richard and Donna Metzger
14015 Hwy. 36W
Cottonwood, CA 96022

Dear Mr. and Mrs. Metzger:

STATEMENT OF WATER DIVERSION AND USE NUMBER 4730 IN TEHAMA COUNTY

Mr. Irving H. Storer has requested transfer of the above numbered statement's ownership to:

Irving H. Storer
5295 Tedoc Road
Platina, CA 96076

Our records will be updated to show Mr. Storer as owner of this statement in accordance with Superior Court of the State of California, County of Tehama, Case No. C143432 re: Irving H. Storer et al vs. Richard R. Metzger et al.

If you have any questions or concerns, please contact Koso Nodohara at (916) 657-1872.

Sincerely,

ORIGINAL SIGNED BY.

Terry Snyder
Engineering Associate
Special Watersheds Application Team

cc: I.H. Storer
5295 Tedoc Road
Platina, CA 96076

bcc: ✓ Koso Nodohara

TNSnyder:tns/tvonrotz:830-99
u:/tns/4730

*Update
10-1-99*



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Water Rights

901 P Street • Sacramento, California 95814 • (916) 657-2170
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 657-1485 • Web Site Address: <http://www.swrcb.ca.gov>
Division of Water Rights: <http://www.waterrights.ca.gov>

SURNAME



Gray Davis
Governor

SEP 01 1999

In Reply Refer
to:332:TNS:4730

Richard and Donna Metzger
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Sincerely,

ORIGINAL SIGNED BY.

Terry Snyder
Engineering Associate
Special Watersheds Application Team

cc: I.H. Storer
5295 Tedoc Road
Platina, CA 96076

bcc: Koso Nodohara

TNSnyder:tns/tvonrotz:830-99
u:/tns/4730

SURNAME
DWR 540 REV. 1/86

Snyder
8-31-99

8/ 39106

1 DARRYLL ALVEY (CSB#138640)
2 Attorney at Law
3 1905 Park Marina Drive
4 Redding, CA 96001
5 Telephone: (530) 246-1445

6
7 Attorney for Plaintiff
8 IRVING H. STORER, et al

FILED
SUPERIOR COURT OF CALIFORNIA
JUN 22 1999
COUNTY OF TEHAMA, CIVIL DIVISION
JEANINE BUTLER, CLERK OF THE COURT
By MICHELLE WAELTY Deputy

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF TEHAMA

11 IRVING H. STORER,
12 IRVING H. STORER TRUSTEE FOR
13 THE IRVING H. STORER AND ELSIE
14 P. STORER FAMILY TRUST,

Case No. CI43432

15
16 Petitioner,

NOTICE OF ENTRY OF JUDGMENT

17 vs.

18 RICHARD R. METZGER,
19 DONNA METZGER, husband and
20 wife, AND does 1 through 20,


21 Defendants.

22
23 AND RELATED CROSS ACTIONS.

24 TO RICHARD R. METZGER and DONNA METZGER, DEFENDANTS AND TO JONZ C.
25 NORINE OF PICKERING LAW CORPORATION THEIR ATTORNEY OF RECORD:

26 NOTICE IS HEREBY GIVEN that on June 10, 1999, Judgment After Trial was entered
27 in the above-entitled action in favor of IRVING H. STORER, Plaintiff, and against RICHARD
28 R. METZGER and DONNA METZGER, Defendants.

Dated: June 17, 1999


DARRYLL ALVEY
Attorney for Plaintiff, Irving H. Storer, et al

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PROOF OF SERVICE

I am a citizen of the United States and employed in Shasta County, California. I am over the age of 18 years and not a party to the within action. My business address is 1905 Park Marina Drive, Redding, California, 96001. On this date I served the following document(s):

NOTICE OF ENTRY OF JUDGMENT and
JUDGMENT AFTER TRIAL

x by placing a copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mailbox in Redding, California, addressed as set forth below

Jonz C. Norine
Pickering Law Corporation
P.O. Box 992200
Redding, CA 96099-2200

Jack Kenealy
Attorney at Law
1214 Carriage Drive
Woodland, CA 95776

— by Express Mail or other means of overnight delivery, placing a true copy thereof enclosed in a sealed envelope with postage/delivery fees prepaid, and depositing the envelope in a box or other facility regularly maintained by the express service carrier for delivery as addressed below.

— by personally delivering a true copy thereof to the person and at the address set forth below in a sealed envelope.

— by facsimile transmission to a facsimile machine maintained by the person on whom the attached is served at the last known facsimile machine telephone number given or filed in this cause.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 18, 1999, at Redding, California.

Diane Hepler
DIANE HEPLER

ENDORSED

FILED

SUPERIOR COURT OF CALIFORNIA
AND ENTERED

JUN 10 1999

1 DARRYLL ALVEY
2 Attorney at Law
3 State Bar No. 138640
4 1905 Park Marina Drive
5 Redding, CA 96001
6 (530) 246-1445

7 Attorney for Plaintiff
8 IRVING H. STORER, et al.

COUNTY OF TEHAMA, CIVIL DIVISION
JEANINE BUTLER, CLERK OF THE COURT
BY ANGELICA Z. ROUSE, DEPUTY

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 IN AND FOR THE COUNTY OF TEHAMA

11 IRVING H. STORER,
12 IRVING H. STORER TRUSTEE FOR
13 THE IRVING H. STORER AND ELSIE
14 P. STORER FAMILY TRUST,

CASE NO. CI43432
JUDGMENT AFTER TRIAL

15 Plaintiffs,

16 vs.

17 RICHARD R. METZGER,
18 DONNA METZGER, husband and
19 wife, and DOES 1 through 20,

20 Defendants.

21 AND RELATED CROSS ACTIONS.

22 This action came on regularly for trial by court on December 15, 1998, with Plaintiff
23 IRVING H. STORER, appearing in person and by DARRYLL ALVEY of the LAW OFFICE OF
24 DARRYLL ALVEY, and Defendants, RICHARD R. METZGER and DONNA METZGER,
25 appearing in person and by JONZ NORINE of PICKERING LAW CORPORATION, Cross-
26 Defendant, JANICE WILSON, appearing in person and by JACK KENEALY; the court being
27 duly convened, witnesses testified, evidence was entered and the case submitted for a
28 decision, and after deliberation:

JUDGMENT IS ORDERED FOR PLAINTIFF, AS FOLLOWS: IRVING H. STORER
receive restitution of all consideration given to Defendants, RICHARD R. METZGER and
DONNA METZGER, and each of them, namely:

1. The improved real property herein referred to as the Ranch and all rights appurtenant thereto including, but not limited to, water rights, easements and rights of ownership, commonly known as A.P. #01-050-28, and A.P. #01-120-01, 02 and 04: See attached legal description set forth in Exhibit "A";

2. All stock and equipment on the Ranch, the contents of the Ranch house and outbuildings, a 1942 Jeep, a Lambourghini tractor and accessories and a Yanmar wheel tractor;

3. The sum of Sixty Thousand Dollars (\$60,000.00) under the loan transaction;

4. An additional Sixty Thousand Dollars (\$60,000.00) entrusted to Defendants for Plaintiff's care and support;

5. Plaintiff's coin collections, vial of gold and .38 caliber pistol; together with

6. Costs of suit.

JUDGMENT IS ORDERED FOR CROSS-DEFENDANT, JANICE WILSON, plus costs
of suit.

The Court hereby reserves jurisdiction to make such other orders as are necessary to effectuate such restitution.

The Court makes no order respecting any restitution to Defendants by way of the Cross-Complaint. The Court's decision respecting rescission and restitution renders moot Defendants' equitable action for declaratory relief and various contract derivative tort actions against both Plaintiff and Cross-Defendant, Janice Wilson. Cross Complainants take nothing under their Cross-Complaint.

Dated: June 10, 1999

JOHN J. GARAVENTA
JUDGE OF THE SUPERIOR COURT

All that certain real property situated in the unincorporated area of the County of Tehama, State of California, described as follows:

Lots 2, 3, 4 and the Southwest quarter of the Northwest quarter of Section 2, Township 28 North, Range 9 West, and the South half of Sections 35 and 36, Township 29 North, Range 9 West, Mount Diablo Base and Meridian, excepting from said Section 36, all that portion thereof conveyed to the State of California, by Deed dated November 16, 1953, and recorded January 13, 1954, in Book 257 of Official Records, at page 312, Records of Tehama County.

Also excepting therefrom that portion conveyed to Homer C. Sagely, a married man in deed recorded June 18, 1969 in Book 529, page 682, Official Records of Tehama County.

All of Section 3, Township 28 North, Range 9 West, Mount Diablo Base and Meridian.

Lot 1, the South half of the Northeast quarter, the Northeast quarter of the Southeast quarter and the South half of the South half of Section 2, Township 28 North, Range 9 West, Mount Diablo Base and Meridian.

Excepting therefrom a strip of land 50 feet wide as described in the right of way deed to the Pacific Gas and Electric Company, dated May 16, 1957, and recorded June 21, 1957, in Book 311 of Official Records, at page 236, Records of Tehama County.

Together with an easement for road purposes over the existing roads near and running approximately parallel to Dry Creek in the Easterly 1190 feet of the Southeast quarter of the Southeast quarter of Section 36, Township 29 North, Range 9 West, M.D.B. & M.

Said easement is appurtenant to the property of Irving H. Storer and Elsie P. Storer lying at the Western terminus of the above described easement, as conveyed by deed recorded March 9, 1973, Book 616 page 67, Official Records of Tehama County.

Exhibit "A"

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

If the information below is inaccurate, please line it out in red and provide current information.
Notify this office if ownership or address changes occur during the coming year.

PLEASE COMPLETE AND RETURN THIS FORM BY JULY 1, 1997

OWNER OF RECORD: RICHARD METZGER, DONNA METZGER

RICHARD METZGER
14015 HIGHWAY 36 WEST
COTTONWOOD, CA 96022

STATEMENT NO: S004730



SOURCE: DRY CREEK
TRIBUTARY TO: SOUTH FORK COTTONWOOD CREEK
COUNTY: TEHAMA
DIVERSION
WITHIN: SW $\frac{1}{4}$ OF SW $\frac{1}{4}$ SECTION 35, T29N, R9W, MB&M.

TELEPHONE NUMBER:
(916) 527-4892 ✓
YEAR OF FIRST USE: 1900
PARCEL NO:

- A. Water is used under: ☒ Riparian claim ☐ Pre 1914 right ☐ Other (explain): _____
- B. Year of first use (Please provide if missing above) _____
- C. Amount of Use - Enter the amount of water used each month. If monthly and annual use are not known, check the months in which water was used.

Amounts below are: ☐ Gallons ☐ Acre-feet ☐ (other) _____

Year	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total Annual
1994													
1995													
1996													

- D. Purpose of Use - Specify number of acres irrigated, stock watered, persons served, etc.
Irrigation 100 acres; Stockwatering 100; Domestic 9 persons
Other (specify) _____
- E. Changes in Method of Diversion - Describe any changes in your project since your previous statement was filed: (New pump, enlarged diversion dam, location of diversion, etc.)
No changes as of yet
- F. If part of the water listed in Part C consists of reclaimed or polluted water, please indicate the annual amounts of reclaimed or polluted water in the space below.

I declare under penalty of perjury that the information in this report is true to the best of my knowledge and belief.

DATED: 5-15, 1997 at Gratiota, California

SIGNATURE: Richard R. Metzger, Donna Metzger

PRINTED NAME: Richard R. Metzger
(FIRST NAME) (MIDDLE INIT.) (LAST NAME)

COMPANY NAME: _____

See back of page for General Information. If there is insufficient space for your answers, please number them in the space provided on the back of this form.

5 - 4 730
** PLEASE COMPLETE, SUBMIT THE ORIGINAL AND MAKE A COPY FOR YOUR RECORDS **

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

P.O. BOX 2000 SACRAMENTO, CA 95812-2000

MM 12-20-95

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

STATEMENT NO: S004730
OWNER OF RECORD: I H STORER

I H STORER
STAR ROUTE
PLATINA, CA 96076

Env. ret. & info. sheet
RR Metzger
HCO1 Box 645
Platina, Calif 96076

STATE WATER RESOURCES
CONTROL BOARD
DIV. OF WATER RIGHTS
SACRAMENTO
1995 MAY - 1 PM 12:45

SOURCE: DRY CREEK
TRIBUTARY TO: SOUTH FORK COTTONWOOD CREEK
COUNTY: TEHAMA
DIVERSION
WITHIN: SW $\frac{1}{4}$ OF SW $\frac{1}{4}$ SECTION 35, T29N, R9W, MDB&M,

TELEPHONE NUMBER:
(916) 352-4376
YEAR OF FIRST USE: 1900
PARCEL NO:

(If any of the above information is inaccurate or missing, please correct. Notify this office if ownership or address changes occur during the coming year.)

1995
COMPLETE AND RETURN THIS FORM BY JULY 1, _____

- A. Water is used under: Riparian claim _____; Pre 1914 right ☒; Other (explain) _____
- B. Year of first use (Please provide if missing above) _____
- C. Amount of Use - Enter the amount of water used each month. If monthly and annual use are not known, check the months in which water was used.

Amounts below are: ☐ Gallons ☐ Acre-feet ☐ (other) _____

	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.	TOTAL ANNUAL
1992	all												
1993	all												
1994	all												

- D. Purpose of Use - Specify number of acres irrigated, stock watered, persons served, etc.
Irrigation 6 acres; Stockwatering 50 head annual domestic 3 persons
Other (specify) _____

*** CONTINUE ON BACK PAGE ***

*** PLEASE COMPLETE, SUBMIT THE ORIGINAL AND MAKE A COPY FOR YOUR RECORDS ***

- E. Changes in Method of Diversion - Describe any changes in your project since your previous statement was filed. (New pump, enlarged diversion dam, location of diversion, etc.)

NONE

- F. If part of the water listed in Part C consists of reclaimed or polluted water, please indicate the annual amounts of reclaimed or polluted water in the space below.

NONE

I declare under penalty of perjury that the information in this report is true to the best of my knowledge and belief.

DATED: 4-15, 1995, at Platina, California

SIGNATURE:

Richard & Donna Metzger

PRINTED NAME:

Richard
(FIRST NAME)

(M. NAME)

Donna
(LAST NAME)

COMPANY NAME:

GENERAL INFORMATION PERTAINING TO WATER RIGHTS IN CALIFORNIA

There are two principal types of surface water rights in California. They are riparian and appropriative rights.

A riparian right enables an owner of land bordering a natural lake or stream to take and use water on his riparian land. Riparian land must be in the same watershed as the water source and must never have been severed from the sources of supply by an intervening parcel without reservation of the riparian right to the severed parcel. Generally, a riparian water user must share the water supply with other riparian users. Riparian rights may be used to divert the natural flow of a stream but may not be used to store water for later use or to divert water which originates in a different watershed, or return flows from use of groundwater.

An appropriative right is required for use of water on nonriparian land and for storage of water. Generally, appropriative rights may be exercised only when there is a surplus not needed by riparian water users. Since 1914 new appropriators have been required to obtain a permit and license from the State.

Statements of Water Diversion and Use must be filed by riparian and pre-1914 appropriative water users. The filing of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their diversion, and (3) assists the State to determine if additional water is available for future appropriators.

The above discussion is provided for general information. For more specific information concerning water rights, please contact an attorney or write to this office. We have several pamphlets available. They include:

"Statements of Water Diversion and Use"
"Information Pertaining to Water Rights in California"
"Water Rights for Stockpounds Constructed Prior to 1969"
"Appropriation of Water in California"

STATE WATER RESOURCES CONTROL BOARD

PAUL R. BONDERSOHN BUILDING
901 P STREET
SACRAMENTO, CALIFORNIA 95814
(916) 657-1875
FAX: 657-1485

Mailing Address

DIVISION OF WATER RIGHTS

P.O. BOX 2000, Sacramento, CA 95812-2000



In Reply Refer
to: 332:WR:S-4730

Stunt
4/730

MARCH 14 1995

Richard and Donna Metzger
HC 01, Box 645
Platina, CA 96076

Dear Mr. and Mrs. Metzger:

STATEMENT OF WATER DIVERSION AND USE NUMBER 4730 IN TEHAMA COUNTY.

The present holder of record for the above numbered statement has advised us that the property has been transferred to you. Our records will be updated to show you as owner of this statement.

The next supplemental statement form will be sent to you in January 1996.

If you have any questions or concerns, please contact me at the above number.

Sincerely,

ORIGINAL SIGNED BY:

Wynne Rowlands
Associate Land and Water Use Analyst
Application Unit #2

cc: 1.H. Storer
HC 01, Box 630
Platina, CA 96076

WR 40b (5/94)

bcc: OPG/KSN

WRowlands:3/13/95:dmerrigan:3/13/95
o:forms:40b:4730

SURNAME
DWR 540 REV. 1/86

Rowlands
3-14-95

BE 3910E

STATE WATER RESOURCES CONTROL BOARD
Division of Water RightsP.O. BOX 2000 SACRAMENTO, CA 95810
901 P ST. SACRAMENTO, CA
(916) 322-4503

(916) 324-5741

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

DIVERTER OF RECORD:

I. H. STORER

Please transfer to new owners~~P.O. BOX 1045~~~~RED BLUFF CA~~~~95080~~~~Richard + or Donna Metzger~~~~HC 01 BX 645 Platina, Ca 96076~~~~Ph. (916) 527-4892~~3-4-95 *I. H. Storer*

IF NAME/ADDRESS/PHONE NO. IS WRONG OR

SOURCE: DRY CREEK

TELEPHONE NUMBER:
(916) 352-4376

CORRECT.

1995 MAR 13 PM 12:15

DIV. OF WATER RIGHTS

SACRAMENTO

STATE WATER RESOURCES
CONTROL BOARD
TRIBUTARY TO: SOUTH FORK COTTONWOOD CREEK

COUNTY: TEHAMA

DIVERSION:

WITHIN: SW1/4 OF SW1/4 SECTION 35, T29N, R09W, MDEEM.

STATEMENT NO: OC4730

files 5-4730

upstream from their diversion, and (c) assist the State to determine if water is available for future appropriators.

The above discussion is provided for general information. For more specific information concerning water rights, please contact an attorney or write to this office. We have several pamphlets available. They include:

- "Statements of Water Diversion and Use"
- "Information Pertaining to Water Rights in California"
- ~~"Water Rights for Stockponds Constructed Prior to 1969"~~
- "Appropriation of Water in California"

STATEMENT OF WATER DIVERSION AND USE
INFORMATION SHEET

STATEMENT NO. 5004730

DIVERSION SITE:

OWNER'S NAME Richard AND Donna METZGER
(FIRST) (MIDDLE) (LAST)

PARCEL NO. 001-050-28-1

PLACE OF USE:

OWNER'S NAME Richard AND Donna Metzger
(FIRST) (MIDDLE) (LAST)

1. PARCEL NO. Above

2. PARCEL NO. _____

3. PARCEL NO. _____

PERSON OR FIRM TO RECEIVE ALL CORRESPONDENCE AND SUPPLEMENTAL
STATEMENTS:

OWNER/LESSEE/AGENT/OTHER _____

NAME _____
(FIRST) (MIDDLE) (LAST)

MAILING ADDRESS _____

(CITY) (STATE) (ZIP)

TELEPHONE NO. (_____) _____ - _____

OTHERS USING ABOVE DIVERSION LOCATION:

1. NAME DONE
(FIRST) (MIDDLE) (LAST)

MAILING ADDRESS _____

(CITY) (STATE) (ZIP)

TELEPHONE NO. (_____) _____ - _____

2. NAME _____
(FIRST) (MIDDLE) (LAST)

MAILING ADDRESS _____

(CITY) (STATE) (ZIP)

TELEPHONE NO. (_____) _____ - _____

☐ ADDITIONAL INFORMATION CONTINUED ON BACK OF PAGE OR ATTACHED

PLEASE USE THE OTHER SIDE TO PROVIDE THE ABOVE INFORMATION FOR
ADDITIONAL OWNERS OR PLACES OF USE AND CHECK THE ADDITIONAL
INFORMATION BOX.

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
Division of Water Rights

P.O. BOX 2000 SACRAMENTO, CA 95812-2000
901 P ST. SACRAMENTO, CA 95814
(916) 322-4503

(916) 657-1875

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

DIVERTER OF RECORD:

STATEMENT NO: 004730:

I H STORER
~~STAR ROUTE~~ HC 01 Bx 630
PLATINA, CA 96076

TELEPHONE NUMBER:
(916) 352-4376

IF NAME/ADDRESS/PHONE NO. IS WRONG OR MISSING, PLEASE CORRECT.

SOURCE: DRY CREEK

TRIBUTARY TO: SOUTH FORK COTTONWOOD CREEK

COUNTY: TEHAMA

DIVERSION

WITHIN: SW1/4 OF SW1/4 SECTION 35, T29N, R09W, NDB&M.

INSTRUCTIONS: Please complete Items A, B and C. Item D should be completed if you replaced all or part of your regular water supply with reclaimed or polluted water. RETURN THIS FORM BY JULY 1, 1993. (Additional information on reverse side of this form.)

A. Amount of Use - Fill in the amount of water used each month. If monthly and annual use are not known, check the months in which water was used.

Amounts below are: ☐ Gallons
☐ Acre-feet
☐ (other)

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total Annual
1990	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
1991	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
1992	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	

B. Purpose of Use - Specify number of acres irrigated, stock watered, persons served, etc.

Irrigation up to 12 ac (when water is available)

Stockwatering 80 - 100 pr

Domestic 3 person, garden

Other (specify) _____

C. Changes in Method of Diversion - Describe any changes in your project since your previous statement was filed. (New pump, enlarged diversion dam, location of diversion, etc.)

None

D. If part of the water listed in Part A consists of reclaimed or polluted water, please indicate the annual amounts of reclaimed or polluted water in the space below.

I declare under penalty of perjury that the information in this report is true to the best of my knowledge and belief.

DATED: 4-7, 19 93, at Platina, California

Signature: Irving H. Storer

GENERAL INFORMATION PERTAINING TO WATER RIGHTS IN CALIFORNIA

There are two principal types of surface water rights in California. They are riparian and appropriative rights.

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Statements of Water Diversion and Use must be filed by riparian and pre-1914 appropriative water users. The filing of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their diversion, and (3) assists the State to determine if additional water is available for future appropriators.

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- "Appropriation of Water in California"

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
Division of Water Rights

P.O. BOX 2000 SACRAMENTO, CA 95810
901 P ST. SACRAMENTO, CA
(916) 322-4503

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

STATEMENT NO: 004730
DIV. OF WATER RIGHTS
SACRAMENTO

DIVERTER OF RECORD:

I H STORER
STAR ROUTE
PLATINA, CA 96076

TELEPHONE NUMBER:
(916) 352-4376

IF NAME/ADDRESS/PHONE NO. IS WRONG OR MISSING, PLEASE CORRECT.

SOURCE: DRY CREEK

TRIBUTARY TO: SOUTH FORK COTTONWOOD CREEK

COUNTY: TEHAMA

DIVERSION

WITHIN: SW1/4 OF SW1/4 SECTION 35, T29N, R09W, MDB&M.

INSTRUCTIONS: Please complete Items A, B and C. Item D should be completed if you replaced all or part of your regular water supply with reclaimed or polluted water. RETURN THIS FORM BY JULY 1, 1990. (Additional information on reverse side of this form.)

- A. Amount of Use - Fill in the amount of water used each month. If monthly and annual use are not known, check the months in which water was used.
- Amounts below are: ☐ Gallons ☐ Acre-feet ☐ (other)

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total Annual
1987	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
1988	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
1989	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	

- B. Purpose of Use - Specify number of acres irrigated, stock watered, persons served, etc.

Irrigation 12 acres

Stockwatering 80-100 pr.

Domestic 3 persons

Other (specify)

- C. Changes in Method of Diversion - Describe any changes in your project since your previous statement was filed. (New pump, enlarged diversion dam, location of diversion, etc.)

none

- D. If part of the water listed in Part A consists of reclaimed or polluted water, please indicate the annual amounts of reclaimed or polluted water in the space below.

none

I declare under penalty of perjury that the information in this report is true to the best of my knowledge and belief.

DATED: Jan 10, 1990, at Platina, California

Signature: Irving H. Storer

MAR 19 1990

GENERAL INFORMATION PERTAINING TO WATER RIGHTS IN CALIFORNIA

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- "Information Pertaining to Water Rights in California"
- "Water Rights for Stockponds Constructed Prior to 1969"
- "Appropriation of Water in California"

FB 189KRB
Hues changed

Thank you
S. H. Stearns

To - Star RT
Platina, Ca 96076

From -
P.O. BX. 1045
Red Bluff, Ca 96080

A change of address -

Div. of Water Rights:
Water Resources Control Board

Jan. 9, 1989
File 54730

2. File

FB 189KRB
Hues changed

10/1/88
10/1/88
10/1/88

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10/1/88

STATE WATER RESOURCES
CONTROL BOARD
1989 JAN 17 PM 1:02
DIV. OF WATER RIGHTS
SACRAMENTO

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
STATEMENT OF WATER DIVERSION AND USE

4730

This statement should be typewritten or legibly written in ink.

- A. Name of person diverting water I. H. Storer
Address P.O. Box 1045 Red Bluff, Ca.
- B. Name of body of water at point of diversion Dry Creek
Tributary to South Fork Cottonwood Creek, S.F. Thence Cottonwood Creek
- C. Place of diversion SW 1/4 SW 1/4 Section 35, Township 29N, Range 9W, MD B&M, Tehama
County, or locate it on sketch of section grid on reverse side with regard to section lines or prominent local landmarks.

D. Name of works

- E. Capacity of diversion works 1 C.F.S.
Capacity of storage reservoir Regulatory System
State quantity of water used each month in gallons or acre-feet

Year	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total Annual
	:	:	:	:	:	:	:	:	:	:	:	:	:

If monthly and annual use are not known, check months in which water was used. State extent of use in units, - S. as acres of each crop irrigated, average number of persons served, number of stock watered, etc. Domestic - 5 persons gardens etc., 20-30 Head of Stock Watering, 6 ac. Pasture irrigated.

Maximum annual water use in recent years Approx. Average 0.1 S.F.S.
Minimum annual water use in recent years Same

Type of diversion facility: gravity ☒, pump

Method of measurement: weir, flume, electric power meter, water meter, estimate

- F. Purpose of use (what water is being used for) Domestic, Stockwatering Irrigation

- G. General description or location of place of use (use sketch of section grid on reverse side if you desire)
SW 1/4 + SE 1/4 of SW 1/4 Sec 35 T29N R9W MD B&M

- H. Year of first use as nearly as known 1900

- I. Name of person filing statement I. H. Storer
Position Owner Organization
Address 1045 P.O. Box Red Bluff Ca.

I certify that the foregoing statements are true and correct to the best of my knowledge and belief.

Date signed 4/10/69

Signature I. H. Storer

See Instructions on Reverse Side

WRCB 40 (12-67)

0-526-50-00-0

16282-987 11-67 10M OOSP

Dated June 9th, 1902.

Posted June 13, 1902.

Witnessed; - Thos. B. Polk.

Recorded at request of Park Henshaw, June 17th, 1902
at 32 min. past 8 o'clock A.M.

W. A. Fish
Recorder

2006 JAN - 3 PM 3:18

STATE WATER RESOURCES
CONTROL BOARD

DIV. OF WATER RIGHTS
SACRAMENTO

Water Claim Notice
Wm. Graves

Notice

Notice is hereby given; - That the undersigned claims 150 Miner's inches of water, to be taken from the Dry Creek or Nelse's Creek, at a point on said creek on the S. W. 1/4 of Sec. 35 Township 29, North, Range 9 West, M. D. M. said water to be taken from the said creek by means of a ditch at the same place on said land as the ditch that is at present on the land known as the Old Nelse Ditch, the said Old Nelse Ditch to be used in the digression of said water, the same to be 18 inches wide at the bottom 24 inches at top and 12 inches deep. Said ditch to run along the course of the "Old Nelse Ditch" in a South Easterly direction for a distance of 1/2 mile and to pass over the following described lands: to wit: S. W. 1/4 of Sec. 35 Town 29 N. Range 9 W. Said water so diverted is to be used for irrigation, stock water and domestic purposes.

Witnessed August 21, 1902.

Wm. Graves

Recorded at request of N. A. German, August 23rd, 1902
at 25 min. past 9 o'clock A.M.

W. A. Fish
Recorder

FILE COPY

STATE OF CALIFORNIA } ss
COUNTY OF TEHAMA

I, Mary Alice George, County Recorder of said County
do hereby certify that the annexed is a whole true
and correct copy of an original as will appear by

reference to Book I of _____
OFFICIAL RECORDS

Page 27 now in my office, and that said copy
has been compared with the original and is a correct
copy therefrom.

Witness my hand and official seal this 30
day of November 20 05

Mary Alice George, Recorder
in and for the County of Tehama, California

Leif Nisa Deputy